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## OUR CONGRESSMEN: THEN AND NOW.

"WHEN the wild geese southward fly," congressmen, correspondents, compositors and claimants move on Washington from all parts of the United States. In the olden time it was for many who came a fatiguing journey, especially for those who had to cross the Alleghany mountains. Henry Clay, with a few other western congressmen who raised horses on their home farms, used to journey here in the saddle accompanied by their families in light covered wagons, and dispose of the horses and vehicles after their arrival. A few of the wealthy New England Federalists and of the aristocratic southerners went to Washington in state, in their coaches-and-four, which they retained through the winter for their personal use. But a majority of the senators, representatives and delegates came here as passengers in the famous old lines of stages, drawn by five good horses; two on the pole and three on the lead.

Those were the days of comfortable wayside inns, where the teams of horses were changed; and where hungry travelers found well-cooked meals of venison, fried chicken, beefsteak, hot waffles, tea and coffee, for which never more than fifty cents—sometimes only twenty-five—was demanded. It was somewhat exhilarating, after having been shut up in a stage coach for several days, to come in sight of the dumpy dome which then crowned the capitol, and which looked for all the world like an inverted wash-bowl.

The coaches belonging to the rival lines of stage-coaches used to come dashing into the federal city, as many then called it, those which carried the mails having guards sitting beside the drivers, armed with blunderbusses, there having been several daring robberies of the mails on the Baltimore and Washington turnpike. It was an old saying that the owners of the lines of stages

furnished horses, but that the drivers had to furnish whips, and the skilful reinsmen would pick a fly from a leader's neck with an adroit motion of the wrist. The coaches stopping before the hotels, each one of which was designated by a large swinging sign, out would come the landlords, bare-headed, to "welcome the coming" guests, and the tired passengers, often covered with dust, would be shown to a long sink, where they would perform their ablutions in tin wash basins, and then use crash towels hung on rollers, finishing their toilettes with a comb and hair-brush chained to the side of a looking-glass.

In those days, when the charge for board and lodging at the best Washington hotels was two dollars per day or ten dollars a week, decanters of brandy and of whisky were set upon each dinner table, to be used by the guests without extra charge. The public sitting room had at one side a bar, where an adroit manipulator of drinks concocted potent beverages. Need I say that disturbances, often ending in bloodshed, were common in these bar-rooms at the beginning of this century? The waiters at the Washington taverns were all slaves. Free men of color were gradually introduced, and then came the Irish, one of whom was shot dead in the dining room of Willard's hotel one morning just before the war, by a California congressman, because he had not displayed sufficient alacrity in bringing a warm plate of buckwheat cakes.

The quaint, sleepy old borough of

Georgetown, established at the head of navigation on the Potomac river, fifty years before the federal metropolis was located, was long the seaport and the court end of Washington. English dry goods, West India groceries, Madeira wines, Brazilian coffee and New England "notions" were landed at its wharves, the vessels that brought them taking return cargoes of the excellent flour brought down the Potomac in boats from the Shenandoah valley. On the heights behind the town were many commodious villas, each in its garden, in which there resided old Roman Catholic families descended from the followers of Lord Baltimore, thrifty Quakers from Pennsylvania, a small New England colony, with a few senators and representatives, whose private fortunes enabled them to live in style and to keep carriages. Other congressmen boarded at Crawford's famous Union hotel, and they were taken to the capitol and back in a large stage coach with seats on the top, known as the "Royal George."

Before the Washington hotels were able to accommodate comfortably those who visited the metropolis, many of the congressmen boarded at private houses, where they formed what was known as "messes." These were generally composed of those of congenial political opinions, and it was understood that no additional boarders were to be taken without the approval of the "mess." Many pleasant acquaintances were thus formed among congressmen away from their homes, especially when the table and the sitting-room were

graced by the presence of one or two ladies. In those days, however, not over one member of congress in twenty brought his wife to Washington. Now over forty senators and upwards of one hundred and fifty representatives are accompanied by their wives at Washington, and the daughters and other ladies attached to the families of congressmen number over one hundred. The home-like effect of these women is very salutary, and to it may be ascribed a decided change for the better in the morals of the congressmen.

There is now an abundance of hotel accommodation of the different grades at Washington, although some of the best public-houses have grown, by accretion, from comparatively small buildings, and lack many of the modern conveniences. The guests, coming from all parts of the country, differ widely in deportment and in dress, and the professional politicians, who congregate at the National metropolis in crowds, are generally not strictly up to the Chesterfield type of good breeding. They like to rendezvous in the room of a representative from their state or district, where they order drinks and cigars at his expense, and discuss the probabilities of success in place-hunting, hour after hour, occasionally sending forth one of their number, as the dove was sent from the ark, to reconnoitre, and ascertain, if possible, what rival applicants are doing to ensure success.

Washington has always been well supplied with amusements. In the olden time the elder Booth, Warren, Jefferson, Fanny Kemble and other genuine stars

gave the play-goers better performances than they now enjoy, and in those days there were none of the variety shows now so abundant. There were birth-night balls, and assemblies, with dances at the hotels to the music of a darkey fiddler, whose saltatory orders directed the cotillion and regulated the intricate figures of the veil. These parties, which always broke up at midnight, have been replaced by "Germans" commencing at that hour, in which the leader dashes about like Sheridan leading a charge of cavalry. Then, as now, there were horse races in the spring and fall, in which congressmen from Kentucky, Virginia and Maryland have always taken an especial interest. Cock-fighting is now contrary to law, and only secretly indulged in, but some of the old "handlers" of belligerent "birds," recall the regular attendance of President Jackson at the cock-pit, and tell how he brought some of his "Hermitage" fighters here to be ignominiously defeated.

Quite a number of Revolutionary heroes, men of giant minds and pure hearts, were members of the earlier congresses, and endured the bitter attacks of the journalists of those days. They were the representative men of the infant Republic, and many of them, with their immediate successors, possessed that loftier statesmanship which, rising above the atmosphere of fierce political passions, impelled them to prefer the welfare of their country to the clamorous demands of party. With these leaders were many others who took such parts in the drama of con-

gressional legislation as are assigned in theatricals to that useful body of men known as supernumeraries. Prompted only by humble aspirations, they doubtless succeeded to their heart's content, leaving on the journals no other evidence of congressional service than a parrot-like repetition of "yea" or "nay." Yet these pawns on the congressional chess-board never sold their rights to appoint cadets at West Point or Annapolis for money, never accepted Credit Mobilier railroad or telephone stock, never brought to Washington a lot of impecunious henchmen for whom they demanded places, never passed days in supplying their rural constituents with garden-seeds, never sold the quotas of public documents which came to them for distribution, and never clamored for places for "their sisters, their cousins and their aunts" in the Bureau of engraving and printing.

The senate used to meet at noon and remain in session about three hours, adjourning over every Thursday until the following Monday, while the house, which was rarely in session four hours a day, seldom sat on Saturdays. Business was transacted—especially in the senate—very much as a board of bank directors deliberates around its table. There were no verbatim reports, and as the stenographers who prepared for their respective newspapers skeleton reports of the proceedings, devoted but little space to routine business, congressmen could freely advocate, oppose or amend resolutions before them without having every word they uttered put

in print, to be scattered over the country as a part of their "record," to be brought up against them on some future occasion.

When a senator or a representative intended to speak at length, or when gentlemen at either end of the capitol informally agreed to discuss an important question on a designated day, a formal announcement was made in the *National Intelligencer*. The few stenographic notes taken were afterwards transcribed for the speakers, who wrote out at length their remarks—or what they would have said. Many of these post-delivery speeches were models of oratorical strength and grace, after the original skeleton had been clothed with well-worded sentences. John Randolph was a privileged character, and many of his clean-cut sentences were flavored with venom, while the retorts by Tristram Burgess, of Rhode Island, were compared by Ben Hardin, of Kentucky, to "cuts with a butcher's knife sharpened on a brick-bat." But it was seldom, in those days, that the Dryasdusts were roused from their snoozes. When there was verbal sparring, it was generally followed by hostile meetings in a secluded dell at Bladensburg. Nearly every congressman had his rifle or his duelling pistols, and there were half a dozen shooting-galleries on Pennsylvania avenue, where embryo belligerents practiced every day. The duelling "code" was a frequent topic of conversation among gentlemen, but it was not unusual for two congressmen, "quick in quarrel," to draw bowie-knives or pistols, with hostile intent, even on the



floor of the house, while that body was in session, but somehow no one was ever hurt. On one occasion a drunken representative at the theatre, not fancying the performance, began shooting at the actors, who precipitately left the stage and lowered the curtain.

Party spirit and the tone of partisan presses have certainly improved since the vile articles were printed about Washington, Jefferson and Jackson. But while there is less vituperation and vulgar personal abuse by journalists of those in authority to whom they are opposed, the pernicious habit of "interviewing" is a dangerous method of communication between our public men and the people. It is no secret in the reporters' galleries at the capitol that repudiated interviews have been prepared by the subjects and furnished by them to the interviewers, who dare not expose the cowards who thus deny the truth of their own assertions.

Daniel Webster is entitled to the foremost place among the intellectual athletes who have figured in the congressional arena. A man of commanding presence, with a stalwart frame, a large head, swarthy features, bold eyes glowering beneath shaggy eyebrows, and a firm, massive under jaw, he used to stand in the senate like a sturdy Puritan sentinel on duty before the gateway of the constitution. He was not a lovable man, though he had strong passions—he was genial in his social instincts, fond of novel pursuits, and well versed in English literature. On that sad night, when he had learned of the nomination of Scott by the Whig convention,

and felt that his life-long hopes had been blasted, a jubilant crowd visited his house and insisted on having a speech from him. The grand heart-broken old man at last complied with the request, and rising superior to the occasion, scornfully looked down upon the little men gathered in front of his door, and made a few commonplace remarks, ending by saying: "I will sleep sound this night, and if I wake, I will know the hour by the constellations—for this is a glorious night." A few weeks later, and he turned for consolation from false friends, with a sore saddened heart, to the revealed word of God.

Then there was Henry Clay—the gallant "Harry of the West,"—who was for years the idol of the Whig party, and who originated many of its measures, yet whose indirect association with the United States bank deprived him of the confidence of many Whig leaders. No man doubted his personal honesty, and it was generally known that he was so poor that his friends paid his debts, but there was a certain something wanting to give him the hold on popular esteem necessary to elect a man President. No one could so move an audience with impassioned eloquence, vehement invective, and taunting sarcasm—the fire of his bright eyes, the sunny smile which lighted up his countenance, adding to the magnetic influence of his well modulated voice. He was "The Great Commoner" of the United States, and his oratorical remains, like those of the mastodon, will long excite the wonder and the interest of posterity.

Differing from Webster and from Clay, and yet in most respects their equal, was John C. Calhoun, who preferred reigning in South Carolina to serving the United States. While Calhoun, in mental and moral characteristics has been compared to Burke, whose private purity was never questioned, and while Clay carried out the personal parallel with the younger Pitt, with a stronger constitution, stronger passions, and more liberal indulgence of them, there was a greater similarity between Daniel Webster and Charles James Fox. Both of these great parliamentary orators possessed the same scorn for money, the same recklessness in pecuniary matters, and the same disregard for debt. It was with wonder that Webster said, in pronouncing his eulogium on Calhoun, "he had no recreation—he never seemed to feel the necessity for amusement." He might have added that the great South Carolinian had neither weaknesses or vices, unless pride, the sin by which angels fell, can be considered as the earth-mark of a character otherwise more faultless than often falls to the lot of frail humanity.

After this trio of great congressmen came verbatim reporting, which has had a leveling influence in the senate and in the house of representatives, especially on the lawyers, who are in the majority at either end of the capitol. Each one imagines himself retained upon every question that comes up, and as what he may say is reported with automatic fidelity and enshrined in print without delay, no amount of argument will induce him to change a

hair of his opinion, which he would regard as bad faith towards his clients. When these legal congressmen first speak, their sentences are phrased like those of a brief, and their rhetoric is that of a mortgage deed. In due time this mannerism disappears, and grasping a question, their appeals to reason, patriotism and sentiment are often forcible and effective. They are generally copious but not tedious, and some of them have the good sense to sit down before losing their own intensity or the attention of the body that they have addressed.

But the Congressional Record, which should mirror exactly what is said and done, is not what it purports to be. It does not contain a phonographic report of the proceedings of the senate and the house, but instead of that senators and representatives substitute what they wish that they had said. Sometimes remarks that were so completely answered as to make their authors ridiculous have been omitted altogether, thus placing the responding speakers in the attitude of replying to what was not said, and presenting the victor in debate as a Don Quixote, fighting wind-mills.

Another grave evil is the publication in the Congressional Record of speeches not delivered. Many of these are purchased of the newspaper men at Washington, some of whom increase their incomes considerably by speech-writing. The purchasers of this patriotic literature often file the speeches for publication without reading them, which sometimes causes trouble. An amusing

example of this abuse occurred in the second session of the Thirty-seventh congress, when there appeared in print within little more than a hundred pages of each other, two speeches, the greater part of which are precisely identical. Neither speech was spoken, and in each case leave was given to print. Either the thoughts of the speakers by a singular mental constitution were precisely alike and found expression in the same words, or an impecunious Bohemian sold duplicate copies of a speech to the two gentlemen.

Comparatively few clergymen have been elected to congress. The foremost of these was Edward Everett, whose classical speeches, choice in words and as neat in phrase, came from him with a charming ease and felicity of expression, and sounded like the gentle ripple of a brook. His remarks, however, lacked the great element of sincerity, and his every word and gesture had been carefully rehearsed.

When the secession plot ripened, its growth encouraged alike by the slave-owners at the south and by the abolitionists at the north, dark masses of clouds hung over the political firmament like a funeral pall. Many eminent statesmen, soldiers and sailors, governed by the purest motives, were induced to follow the flags of their respective states into rebellion, and then to unite beneath the stars and bars.

With the exodus of those southern congressmen who went to Montgomery to establish a new government, which was to be brought in triumph to Wash-

ington, came a new era at the capitol. Slavery, like the sword of Damocles, no longer hung suspended over the deliberations of congress.

William H. Seward, of New York, sought the leadership of the Republican party, but he was not equal to the self-imposed task. His speeches in congress, before the commencement of hostilities, were couched in language so metaphysical and so rhetorical, that it was difficult to know what he really meant, as he wandered on through the region of the improbable or the impossible.

Reverdy Johnson of Maryland, and Garrett Davis of Kentucky, were the last apologists for slavery in the senate. Their respective states were kept in the Union by force, and they evidently felt that they stood on slippery places, as they indulged in long, subtle arguments, in low tones, reminding their hearers of the dangerous wisdom of the serpent and the gentleness of the dove.

Charles Sumner of Massachusetts was, on the whole, the foremost statesman in congress during the war and the reconstruction legislation that followed it. Before the roll of the northern drums had been heard in the southern states, he had denounced slavery and received brutal testimony that his denunciations had been heeded. When the silver-toned trumpets of peace were heard, he endeavored to secure equal rights before the law for the liberated race, and while others dallied with passing events, he looked ahead! It might well have been said of Mr. Sumner as Dr. Johnson once said of Ed-

mund Burke: "Sir! If you should meet him under a bridge during a shower, and had never seen him before, you would know that he was a great man." Upwards of six feet in height, with a stalwart frame, and long, gray hair, he was a man of imposing presence, with courteous manners, and a gentle disposition. He had to carry, in the last years of his life, a heavy burden of domestic trouble, but he moved bravely onward until he was suddenly removed by death.

There are always half a dozen or more senators and representatives who have the presidential bee buzzing in their bonnets, and although they occasionally give some hard hits in debate at the capitol, they often meet at hospitable boards a few hours later in fraternal harmony. That benevolent, yet belligerent old gentleman, Mr. Pickwick, was astonished when he saw his lawyer shake hands with the counsel retained by Mrs. Bardell to oppose him. So our political champions, after cavorting and prancing about in hostile array at the capitol in the afternoon, will harmoniously put their legs under the same mahogany in the evening. Indeed, the dining-rooms at Washington are like that wonderful old island of Delos, which the warring inhabitants of the Greek archipelago used to visit, to lay aside their weapons and enjoy a season of peace and harmony. It is pleasant to be able to add that exhibitions of drunkenness at a Washington dinner are very rare, an improvement on the olden time, when dinner parties were too often

drunken orgies, with an incidental duel as a sequel.

The occasional distribution of railroad and other stocks during the past thirty years, among senators and representatives, "where they would do the most good," has done much to pollute the fountain-heads of legislation. The stability of our institutions is mainly guaranteed by the implicit faith of the citizens in the honesty and the trustworthiness of congress. When these traits are destroyed by the corrosive action of corporation bribes, there will be an end to constitutional government, and when the bribery became known, a few years since, public indignation sternly rebuked those who had thus sought to enrich themselves. Several of them made haste to restore their ill gotten gains, but the startling revelations made, soon passed unnoticed into forgetfulness.

It was while this "gift enterprise" was going on at the capitol, that Mr. Sam Ward flourished as "*Rex Vestiarum*," or king of the lobby, as he styled himself. Well educated, he had mingled in the best society of Europe and of this country, retaining a fund of anecdote and pleasing manners, which made him—as Edmund Yates said—"the most delightful fellow to be cooped up in a country-house on a rainy day." He came to Washington to act as an attorney in securing legislation, and he sought congressional strength by catering to the appetites of senators and representatives. Thoroughly versed in the mysteries of the kitchen, he would give breakfasts and dinners at which the



dantiest and best products of the earth, the air and the sea were exquisitely served. Presidents, senators, representatives and journalists were always glad to accept an invitation from Sam Ward, who took care that every person at table should be successively called out on some subject about which he could talk entertainingly.

Congressmen pay closer attention to the wants of their constituents and to the public business than their predecessors half a century ago did. Expenditures are scrutinized, proposed reforms and changes of existing laws are studied, and there is reason for hope that congressmen will not have to provide places for their henchmen, or to distribute garden seeds among their rural constituents. It is, however, to be regretted that so many senators and representatives, instead of devoting their summer vacations to recreation and recuperation, go from the committee rooms of

the capitol to lawyers' offices and counting-rooms, to toil there until again summoned to congressional labor. The result is that in late years many congressmen, although apparently gifted with a vigorous vitality of body and of mind that have given their friends reason to hope for a long twilight to their useful lives, have died suddenly. Whether this has been owing to constant work in the session and in the recess, or whether the late dinners of Washington are unhealthy, no man knoweth. Indeed, the friends of those who have thus leaped the dark gulf to the unknown shore, while they regret their departure, are consoled by the knowledge that their faculties were undimmed, and that, like Swift and other great men, their mental powers did not slowly decline as they tottered down life's hill-side.

BEN: PERLEY POORE.

## ELIJAH P. LOVEJOY.\*

NOVEMBER 7, 1887, will complete the fiftieth year since the riots in Alton, Illinois, in which Rev. Elijah P. Lovejoy was killed. Fifteen years passed by before any stone designated the spot where his body was laid. It has been said that the place of burial was concealed, lest it might be desecrated, and that no adequate monumental tablet was provided lest it should be destroyed.

When at last a stone was placed over his dust, it was the act of a young man alone, himself having no personal relation to the deceased, or to the parties who were actors in the tragedy. On a visit to Boston he procured it, a block of granite 25 x 30 inches, and fifteen inches high, with a white marble scroll upon it. On its face looking upward one, stooping low, may read

*Hic jacet*  
LOVEJOY.

*Jam parce sepulto.*

This, and nothing more. Without date. No allusion to death! Simply a disclosure, and that as in the presence of hostile power; of enmity not yet

\*As an American citizen, I solemnly protest against all attempts to frown down the liberty of the press and forbid the free expression of opinion. Under a deep sense of obligations to my country and God, it is my fixed purpose to submit to no such dictation. And I am prepared to abide the consequences.—E. P. L.

sated. Spare him, now at rest in his grave!

The grave is near the crest of a high bluff overlooking the Mississippi just above its confluence with the Missouri river. Across that line lay the slave territory. Looking southward one can see, fourteen miles away, the smoke of the great city of St. Louis, from whose mob-violence Lovejoy escaped with loss of household goods, to the free soil of Illinois.

He had been invited to take charge editorially of the *Observer*, a weekly religious paper. He was not then technically an Abolitionist, but, rather, one desirous of gradual emancipation. He wrote vigorously against public offense of all sorts, but especially, as he supposed he had occasion to do, against "popery and slavery." He was in the prime of manly vigor; of genial Christian spirit; a minister of the gospel, as was his father before him; educated theologically at Princeton, and amid editorial labors he preached, as he had opportunity, in the churches in St. Louis and vicinity.

The first organized opposition to him came in the form of a paper, signed by a number of wealthy gentlemen in St. Louis and by the pastor of the church who received him into membership at his conversion in 1832, asking him to desist from the discussion of slavery,

and expressing the opinion that American slavery was sanctioned by the Bible. Lovejoy published the paper and a lengthy reply, full of tenderness and marked by candor, appealing to those very persons as to his right to a free press. He said moreover, "If popular vengeance needs a victim, I offer myself a willing sacrifice to any assault that may be made upon me. It is my purpose to make no resistance." Intense excitement followed. The original owners of the paper desired him to return the control of the property to them. This he did, although they could not have compelled him to do so legally. A friend, unexpectedly raised up, secured the press and restored it to him on the condition that he would remove to Alton, in order to save it from destruction. This he ultimately did, after about five months; a portion of it left upon the levee a short time, having been destroyed. Contrary to agreement, the steamer that took the press up the river, landed it at Alton on the morning of the Sabbath, July 21, 1836. Lovejoy declined to receive it. That night a few persons broke it in pieces and threw it into the river. The next day citizens of Alton, at a public meeting, resolved to make up the loss. They raised the money and bought a new press at Cincinnati. It came safely, and its first issue was given to the public September 8, 1836. For ten months it continued its work without interruption. In the number for June 29, 1837, a call was made from the American Antislavery society for volunteers to circulate petitions for the

abolition of slavery in the District of Columbia. An editorial called attention to it with words of approval. The next week, July 6, brought an editorial article, pointing out the inconsistency of the substance of the fourth of July oratory, "while our feet were on the necks of three millions of our fellow men." It said "the flag of freedom that waves over our heads was formed from materials cultivated by slaves, on a soil nurtured by their blood, drawn from them by the whips of Republican taskmasters."

This at that time was language such as the minions of the slave power were not accustomed to hear. A fiery indignation manifested itself in a call for a public meeting of those friends of the *Observer* dissatisfied with its course. The meeting was held, and the outcome was a denunciation of the editor, who was called upon "to desist from publishing anything on the subject of slavery." A temperate reply, through the paper, denied their assumed right to act as censors of the press, and claimed the liberty of freedom of discussion, amenable to law. From this time on arguments gave place to threats. On the night of August 21, between ten and eleven o'clock, the office was attacked with stones and brickbats, the workmen driven out, and the press, type and everything connected with the paper destroyed. The building in which this vandalism occurred is still standing. Lovejoy, on the way to his house with medicine for a sick wife, was surrounded by a mob, with the avowed purpose of doing him bodily injury, but

was finally let go. Money was at once subscribed by citizens for the purchase of a new press, which came one month after the destruction of the former. The night of its arrival, twelve armed men threw it into the river. Public feeling was more than ever excited. A meeting was again called in which both parties were invited to appear. The violent pro-slavery portion was largely in the majority. Resolutions were adopted insisting on complete silence, rather than the agitation of subjects in themselves deemed right; and the indispensable necessity of withdrawal on the part of Lovejoy from the paper.

This action foreshadowed the end. It was declaration of war. Lovejoy responded: "I cannot leave and go elsewhere. I have no claim on the protection of other communities more than on this. Having consulted friends and counseled with God, I have concluded to remain. If the civil authorities refuse to protect me, I must look to God; and if I die, I have determined to make my grave here." The civil authorities had done nothing, or rather they had refused to do anything. They intended to do nothing. They had no desire to bring the criminals to justice for violence hitherto done. They were not willing to take action to preserve order or to maintain law in the future. Some influential men were with Lovejoy, and had armed themselves for the protection of his person and property, and they offered themselves to the mayor of the city as a military support. He declined to accept them. The masses were indifferent or opposed. The com-

mon council, the mayor, the state's attorney, were with the masses, and wished to be rid of Lovejoy and of agitation on the subject of slavery.

The new press, the fourth, was landed at 3 o'clock in the morning of November 7, and removed to the stone warehouse of Godfrey & Gilman, and guarded by a company of from thirty to sixty men, the mayor recognizing their right thus to do. They remained during the day and till nine at night, then believing the property secure from attack, or not liable to disturbance, withdrew to their homes, leaving less than twenty of their number in the warehouse. A half hour had not elapsed before this relaxation of vigilance was known, and a mob of about thirty persons gathered from adjacent saloons, made an assault and demanded the press. On being refused they attacked the building with missiles, then fired a volley through the windows. The firing was returned from within and one man was killed and two were wounded. The bells were rung and the alarm given, and others gathered, but there was no effort made to keep the peace. After the lapse of an hour the rioters, fortified anew with drink, came with ladders to burn the building through its roof. It was a clear, moonlit night. The mayor appeared among the rioters and ordered them to disperse. He was insolently told, "We will when we are through." The fire having kindled on the roof, the party from within made a sortie to drive the incendiaries away, which having been done they returned within.



Lovejoy tarried at the door for a moment to look around, and fell pierced with five bullets. A parley now ensued, and the besieged yielded and retired, though fired upon in so doing. The press was taken out and thrown into the river. No attempt from without was made to oppose the mob. Yet in a single instance a friend of Lovejoy in the crowd covered with his rifle one of the rioters in hiding and awaiting an opportunity to shoot, he watched for the flash of his gun, but the other did not shoot and there was at least one less victim. Lovejoy's body, guarded by a friend, lay till the morning. It was then removed to the dwelling he occupied, and on the day following, November 9, was laid away with no other ceremony than an offered prayer.

Here and thus began the war of the great rebellion of 1861, and the sacrifice of its myriad lives, its cost in millions of treasure. It was an assault on Christian free speech, with menaces of peril, with destruction and waste of property and sacrifice of life. It need not be here recited how it was stimulated, aided and abetted and justified. If anything were lacking to stigmatize the local city government as *particeps criminis*, as accessory, as gratified with the murderous issue, it will be found in the public attempt to fasten the charge of inciting to riot on the men who defended their property in the warehouse, and in which defense they had the countenance of the mayor of the city. It is hardly necessary to say that the jury acquitted them of the charge. Yet in like manner another jury acquit-

ted the rioters. The chief murderers at once fled.

The story of this martyrdom was told from ocean to ocean. Leading men, journals of influence, especially throughout New England, spoke out in denunciation of the great crime and in recognition of the one hero who stood, who fell for liberty. "It has struck us with amazement," said the *Boston Recorder*, "that the most decided expressions of disapprobation and abhorrence of the deed are from the slaveholding states." Many an aged man, man in middle life, young man and maiden, then and there became the fixed and unalterable enemies of the slaveholding system. Many a gray-haired man of to-day will tell you that this tragedy begat in him a feeling of fear and of antagonism. He became concerned for the heritage of his children.

And yet this crucial hour in our history, the noble spirit of this freeman, the principle for which he gave up his life, the place and time of the sacrifice have no public recognition in

Storied urn or animated bust,

or monumental marble. Only the careful traveler can find the spot where he is laid. A half century of years, and only the wild winds there to hymn his requiem!

But there fell a blight on the city of Alton. The slaveholder shunned it as having contagion. The antislavery man turned with abhorrence away from its lawless courts, its debauched and blood-stained government. It had high expectations. It deemed itself a rival of St. Louis. It was at the head of

river navigation, for the lower ports and rivers. The commerce on the bosom of those great rivers passed from thence through slave territory to the seas. The products of Illinois that were to go southward took the river below. The great steamers of the lower Mississippi gradually ceased to go up to Alton. The railway from Chicago that at the first terminated there, as a distributing point, laid its tracks to St. Louis. Its own large business houses in the half century following have moved to St. Louis.

In 1872, for the first time after that sad funeral of her brother, a sister of Lovejoy visited Alton. In passing through the "lower town" on the way to the cemetery, notwithstanding the changes of thirty-five years, she recognized as she unexpectedly passed it, the dwelling where they lived, and the window through which a brick was thrown where she herself stood but a moment before. A touching incident of this her first and last visit was the meeting with the negro, who, thirty-five years before, voluntarily dug the grave and collected poke-berries and stained with their juice the coffin of the martyred man, and accompanied it to its burial. Nearly twenty years after, when the casket was taken up from the road or driveway "between two large trees, one at either end," he again performed like offices without pay, attended the body to its present place, having kept it in memory, and, as it were, standing guard over it through the lifetime of a generation. There was a special fitness that he should there be found as a con-

necting link between the dead and the living, at this coming to the sepulchre, to tell what monumental marble did not, the history of silent years. His watch is now ended. A paragraph from a local paper there, tells an interesting story:

William Johnson died at his home in this city at twelve o'clock last night, at the age of about eighty years. He was a native of Aberdeen, Scotland, and was a freemason there. While a young man he was the confidential attendant of Lord Aberdeen, and in that capacity traveled extensively in Europe. He saw Lord Byron and heard him make a speech in acknowledgment of a reception given him when he succeeded to the title. Johnson came to America about 1833, landing first at New Orleans. He afterwards came to St. Louis, where he worked at his trade as a stone-mason for some time. While walling a well in St. Louis, he was buried by the caving earth, and released with difficulty after many hours interment, losing the sight of one eye by the terrible ordeal. When Elijah P. Lovejoy was killed in 1837 by a pro-slavery mob, Johnson was living here, and without fee or reward dug the grave of the first antislavery martyr.

There were others, witnesses of the riotous proceedings of that day, and bearing prominent part in them, whose history is not written, and yet it should be. If any among those who conspired together to compass Lovejoy's removal ever after bore an honored name, or went on to fortune or wealth or fame, we have not heard of it. An attorney prominent in the affair, gifted with a degree of popular, often profane eloquence, was once, at least, elected by those who resembled him to the state legislature. But no temperance reform could long keep him from the habit of excessive drinking, and no "revival" meetings in later years, or anxious, tearful prayer sufficed for any long time to secure him "rest to his soul."

A medical student, who claimed on the morning of the day following the last riot that "he killed Lovejoy," fled from the city, to be himself killed not long after in a street brawl in New Orleans. A physician in whose office he studied, and "one of the worst instigators," went to Texas, and as acting surgeon in a regiment in 1845-6 was killed by one of his own men. A drayman that immediately left the city, after a very few years was thrown into the state prison in Ohio. Another of this vagabond stock was tried for robbery and intent to kill, and was sent for sixteen years and eleven months to the penitentiary at Jefferson, Missouri, where he served out his full term. Another who had been more prominent as a citizen, but whose boastful pretensions as to the murder were not believed, and who did not find it necessary to run away, after the issue of the emancipation proclamation, indulging in some old time feeling with remarks about the "Lincoln hirelings" in the presence of a passing military company, was knocked down on the sidewalk by one of the boys in blue, who stepped out from the ranks to punish the insolence. Let it not be deemed invidious that others are not referred to in this narrative of the consummation of infamies. They themselves long ago learned that though the

Mills of God grind slowly,  
Yet they grind exceeding small.

A minister of the gospel, of kindred spirit, with genial, loving heart, with Lovejoy through his last year and in the last scenes, Thaddeus B. Hurlbut,

continued the *Observer* about one year after Lovejoy's death. For long years afterwards he resided in Alton, honored and beloved. His only son fell in the service of his country in the strife with the great rebellion. The sword and soldier cap of the young man, on the parlor wall, were all that were returned of one who had been looked to as the stay, the support and hope of age; a sad reminder of the opening campaign in 1837 and of its close in 1865, and of many a sorrowful sacrifice for freedom. After years of campaigning he, too, has gone with the retiring hosts of the former generation. There are yet, it is believed, two helpers and defenders from among those who witnessed the last scenes of the Alton riot—one, the sister above referred to, and Mr. Henry Tanner of Buffalo. Of the three brothers who survived him, one only is now living.

It will long be remembered in the history of the United States house of representatives when Owen Lovejoy, with his brother in his martyrdom, said to Roger A. Pryor and others, who declared Lovejoy should not speak: "You murdered my brother twenty years ago on the banks of the Mississippi river, and I am here to vindicate his blood, and you shall hear me." They did.

Citizens of Alton seemingly intended at some time to lead the way in rearing a monument in commemoration of this man of just, of genial spirit, who fell among them. The approaching semi-centennial will afford them a fit opportunity. Were it undertaken, would there not come to help in the work material aid from homes across the whole land which heard, a half century ago, the knell of this martyr?

M. K. WHITTLESEY.

## BROWNSVILLE, PENNSYLVANIA, IN THE LAST CENTURY.

It is my intention in the present paper to treat only of the civil history of Brownsville, omitting the political and the religious history of the place. The borough of Brownsville is situated on the east side of the Monongahela river, immediately below the mouth of Dunlap's, or, as it was formerly called, Nemacolin's creek, and about half a mile above that of Red Stone creek, and is fifty-three miles above, that is, south of Pittsburgh. Nature destined the location of the town to be a place of more than ordinary importance in our early history; for being at the head of navigation on the Monongahela, and at the same time the nearest point at which the river could be reached from the east by way of Will's creek, which empties into the Potomac at the present city of Cumberland, Maryland, for those who were going to the far west, it loomed into prominence at an early day. Before the advent of the pale faces, an Indian trail led to it, and at an early period in our annals, a road was opened, which added another to the many advantages it already possessed. The name of Red Stone creek was destined to be famous in our frontier history. Like most of the names imposed by the aborigines, it is derived from nature, and has an expressive signification. According to Heckewelder it is the translation of the Delaware Indian word,

*Machkachsen-hanne*, that is, redstone stream, from *machkachsinnink*, which signifies where there are red stones. *Machk-e-u*, meaning red; *mach-xum-men*, to dye red; *machk-te-u*, the aurora; *mach-gen-ach-gook*, the copperhead snake; and *ach-sin*, a stone.\*

Numerous ruins were found throughout the present Fayette county, in early times, and especially in the vicinity of Brownsville. Says an authority on these subjects: "Of the original inhabitants of the territory of which Fayette county forms a part, we know but little. It belonged to the Six Nations, although the Delawares and Shawanese were also found there. But that these were the successors of a race more intelligent, of a people of different habits of life, seems clearly deducible from the remains of fortifications scattered all over the territory, and which are very distinct from those known to have been constructed by the tribes of Indians named, or any of their modern compeers. These remains of embankments, or 'old forts,' are numerous in Fayette county."† The tribes found in the territory at the time when the first settlers made their appearance knew nothing of them, or when or by whom they had been constructed. While the trees of the surrounding coun-

\* Heckewelder's *Indian Names*.

† 'The Monongahela of Old,' p. 17.



try are chiefly oak, those on the ruins are for the most part black walnut, wild-cherry or locust; and from an examination of their growth they would appear to be from three hundred to five hundred years old; and even these are said to have stood on the ruins of others of a former growth. But whatever reliance may be placed by popular opinion on the theory of fixing the age of a tree by the numbers of its growths, it is in a measure delusive. From an examination of the ruins, these embankments appear to have been constructed of wood, as their *debris* is generally a vegetable mould. "No stones were used in their construction, and among their ruins are always found some remains of old pottery, composed of clay mixed with crushed mussel shells, even when far from the river. This composition was not burned, but baked in the sunshine. These vessels are generally circular, and, judging from those we have seen, they were made to hold from one to three quarts. These old forts were of various forms—square, oblong, triangular and semicircular. Their superficial areas range from one-fourth of an acre to ten acres. Their sites were generally well chosen in reference to defence and observation. . . . A very noted one, and of most commanding location, was at Brownsville."\*

The subjoined description of this important ruin will be read with interest: "A fortified camp of a very complete and curious kind, on the ramparts of which is timber of five feet in diameter, stands near the town of Brownsville.

\* 'The Monongahela of Old,' p. 18.

This camp contains thirteen acres enclosed in a circle, the elevation of which is seven feet above the adjoining ground. This was a herculean work. Within the circle a pentagon is accurately described, having its sides four feet high, and its angles uniformly three feet from the outside of the circle, thus leaving an unbroken communication all around. . . . Each side of the pentagon has a postern or small gateway, opening into a passage between it and the circle, but the circle itself has only one grand gateway outward. Exactly in the centre stands a mound thirty-three feet high, supposed to have been a place of lookout. At a small distance from this place was found a stone measuring eight feet by five, on which was accurately engraved a representation of the whole work, with the mound in the centre, whereon was the likeness of a human head, which signified that the chief who presided there lay buried beneath it. The engraving on this stone is evidence of the knowledge of stone-cutting, as it was executed with a considerable degree of accuracy. On comparing the description of this circular monument with a description of works of a similar character found in Denmark, Sweden and Ireland, the conclusion is drawn that at some era of time the authors of this kind of monumental works in either of these countries have been the same."\*

Numerous Indian trails or paths traversed this section of country, as they did many others, which were found very

\* 'Travels of Thomas Ashe,' quoted in 'History of Fayette County,' p. 18.

useful to the pioneers, not only as a means of penetrating the forests, but also in determining the best routes to be followed, especially in the mountain districts, by the roads that were opened from time to time, as the exigencies of settlement demanded. Among these paths none was more noted than that known as "Nemacolin's Path," which led from the mouth of Will's creek to "the forks," where the city of Pittsburgh now stands. A branch of it struck off from the main line at or near the summit of the Chestnut Ridge, and extended to the mouth of Dunlap's creek, the home of Nemacolin.

General Braddock followed this path more or less closely to the scene of his memorable defeat.

The better to define the limits of the territory of which Brownsville may be said to be the centre, it may be stated that as early as the year 1781 the question of erecting a separate county was discussed; but it was not until September 26, 1783, that the county was formed by an act of the general assembly, though its boundaries have since been somewhat changed.

The operations of the French and English in the vicinity not only raised the question as to the possession of the territory by the two nations of the old world, but also caused an internal dispute between the colonies of Pennsylvania and Virginia, which was waged with more or less acrimony till it was finally settled by a joint commission, which met in Baltimore in 1779.

The encroachments of the French in the valley of the Allegheny and Ohio

rivers, Braddock's expedition with its disastrous result, and the struggle that followed brought the regions west of the mountains into public notice; and the final triumph of the English opened up the country to settlers, though for years afterward the Indians continued their depredations. The opening of Braddock's, and later of Forbes' road, did much to facilitate and encourage emigration. In 1759 Colonel James Burd was sent with two hundred men to open a road from Braddock's line of march to the mouth of Dunlap's creek, as a means of facilitating communication with Fort Pitt. He also built a fort on the site of Red Stone Old Fort, which he named Burd's fort; but the name of Red Stone was so deeply fixed in the minds of the pioneers that the two terms long disputed possession. It stood on the site of the present town of Brownsville, and may be said to have been the first formal act of taking possession. It was the first fortification built by the English west of the Allegheny mountains, that commenced at the forks by Captain Trent not having been completed.

According to the science of backwoods fortifications in these days, it was a regularly constructed work of defence, with bastions, ditch, and drawbridge, built, however, wholly of earth and wood. The bastions and central house were of timbers laid horizontally; the curtains were of logs set in the ground vertically, like posts in close contact—called a stockade or palisade.\*

The following are the dimensions of the fort, as found among the papers of Joseph Shippen, an engineer who accompanied Colonel Burd:

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\* 'The Monongahela of Old,' p. 30.

The curtain, 97 feet; the flanks, 16 feet; the faces of the bastions, 30 feet. A ditch between the bastions, 24 feet wide, and opposite the faces 12 feet. The loghouse for a magazine, and to contain the women and children, 39 feet square. A gate, 6 feet wide and 8 feet high; and a drawbridge — feet wide.\*

The building of the fort was no easy task, as may be learned from Burd, who writes:

I have kept the people constantly employed on the works since my arrival; although we have been for eight days past upon the small allowance of one pound of beef and half a pound of flour, per man, a day; and this day we begin upon one pound of beef, not having an ounce of flour left, and only three bullocks. I am therefore obliged to give over work until I receive some supplies.

The supplies soon arrived, and he writes in his journal: "October 26—Sunday—continue on the works; had sermon in the fort." The last entry is: "November 4—Sunday—snowed today—no work. Sermon in the fort."† As the fort was not designed to be a work of great strength, Burd garrisoned it with one officer and twenty-five men; but how long the garrison remained is not known with certainty. It would seem, however, to have been under some kind of military possession in 1774; and during the War of the Revolution and contemporary Indian troubles, it was used as a storehouse and a rallying point for defence, supplies and observation by the early settlers and traders. Colonel James Paul served here for a month in a drafted militia company, in guarding continental stores in 1778.

With the exception of a few squatters

who clustered around Fort Burd, there can be little doubt that Michael Cresap was the first white settler on the spot where Brownsville now stands; although certain of the Browns from whom the town derived its name, and who will be mentioned further on, were in the vicinity before Cresap. The important role which Michael Cresap played in the early history of the Monongahela valley, entitles him to a brief notice. He was the son of Thomas Cresap of Old Town, Maryland, who had been connected with the operations of the Ohio company as its agent, and who, for that reason, became at an early day acquainted with the country west of the mountains. He was also with Colonel Burd at the fort which the latter built. Michael appears to have come to the Monongahela as a trader about the year 1769, but the precise date of his arrival cannot be fixed with certainty. He became a noted pioneer, and by his knowledge of Indian intrigues, was able to rescue the whites on more than one occasion from an impending attack. He was not long in perceiving the importance to which the mouth of Dunlap's creek was likely to attain as the rendezvous of emigrants to the west, especially to "the dark and bloody ground," as Kentucky was then called, and he accordingly secured a title to several hundred acres of land, including that upon which the fort stood, by what was known as "Tomahawk improvement." He also built a house of hewed logs with a shingle roof nailed on, which is believed to have been the first of its kind west of the mountains. Al-

\* 'Pennsylvania Archives,' Vol. xii. p. 347.

† 'Monongahela of Old,' pp. 31, 32.

though the date of its erection is not known, it was built most probably about the year 1770. He made this place the base of his operations for about five years, although his family was still in Maryland. He possessed the advantage of having sufficient means to enable him to secure lands in other places also, while his knowledge of the country prepared him to make the best selections.

He took part as an officer in Dunmore's war, and at its close, in 1774, returned to Maryland. But he was not permitted to remain inactive. In the following year he set out for the west, and proceeded as far as Kentucky, but his health beginning to fail he returned home. Before reaching it, however, he was met by a messenger who informed him that he had been appointed captain of a company of riflemen that was to join General Washington at Boston. Twenty-two of the men were from the Monongahela settlement. Setting out at their head, he proceeded as far as New York, but his health was so impaired that he could go no further, and he died there on the eighteenth of October, 1776, at the early age of thirty-three. He has been unjustly censured for his connection with Dunmore, and still more with regard to the murder of the relatives of Logan, the famous Mingo chief. But his character has been vindicated by John Jeremiah Jacob, who married his widow and wrote his life.\*

We believe the first actual settlers within the present county limits were the Browns—Wendel

and his two sons, Maunus and Adam, if not a third one, Thomas, who came in 1751 or 1752. Their first location was on Provance's Bottom, a short distance below the mouth of Little Jacob's creek. . . . But soon after some Indians enticed them away by promises to show them better land, where they would enjoy greater security. They were accordingly led to the lands upon which the descendants of Maunus still remain.\*

Thomas Brown bought Cresap's property, as well as that of certain other persons adjoining it, and commenced to make improvements in 1776. The correctness of this date is made certain by the certificate which was given him for the tract by the Virginia commissioners at Red Stone Old Fort, December 16, 1779. In that certificate there is added to the description of the tract granted to Thomas Brown the words: "To include his settlement made in the year 1776." The tract was surveyed to him March 21, 1785, and is described in the survey as being "situate on the dividing ridge between Redstone and Dunlap's creek." The tract was designated by the singular name of the "Whiskey Path."

A strong tide of emigration, gauged by the standard of those days, had already set in for the west, but principally for Limestone, now Maysville, Kentucky. The emigrants usually set out in the latter part of the winter, both because the snow facilitated travel, especially in the mountain regions, and also because with the melting of the snow in the spring the river rose sufficiently to float their boats. But travel was beset with many trials, more especially if the snow fell too deep, for then

\* 'History of Fayette County,' pp. 422, 423.

\* 'The Monongahela of Old,' p. 79.



the unfortunate emigrants were snowed in; and although it was easy enough to procure wood to keep them warm, there was danger of their provisions failing at a place where it was impossible to get more. At other times they would find the river too low to be navigated, and would be forced to await a rise, thus causing serious draughts to be made both on their provisions and on their scanty supply of money. This constant stream of westbound settlers gave rise to a brisk trade in boatbuilding, though such as were able usually built their own, as those also did who had no money to buy boats. Employment was thus given to mechanics of different kinds, but especially to the boatbuilders. There were two kinds of boats: the Kentucky boats, as they were called, which were comparatively small, and the New Orleans boats, which were larger and better finished. This work, together with the supply of provisions which it was necessary to take on board, not only for the journey but also to suffice for some time after reaching the terminus of it, made the mouth of Dunlap's creek a very active place, and determined Thomas Brown to lay out a town on his "Whiskey Path." This move was taken in 1785, and he named it Brownville, in honor of himself, a species of vanity that is not confined to the Browns. From the first it had its streets, alleys and public square, much as they exist at the present day. The plan adopted for the sale of the lots was that followed by a number of the early towns of this section of country, but notably that of Union-

town, which had been laid out a short time before by Henry Beeson. The terms were that the purchasers of lots were obliged to build on the lots so purchased a good substantial dwelling-house of the dimensions of at least twenty feet square, with a good chimney of brick or stone, well laid in with slime or sand, and always keep the same in good repair from time to time; and, moreover, pay or cause to be paid to the original owner of the ground, his heirs, etc., the sum of one-half of a Spanish milled dollar, or the value thereof in current money of the commonwealth, in each and every year for each and every lot so purchased forever. An effort was made to call the new town Washington, instead of Brownville, as we learn from a deed executed in 1787 by Thomas Brown, conveying a town lot to Matthew Campbell, in which the property is described as "situate in Brownsville, *alias* Washington." Thomas Brown is said to have occupied the house built by Michael Cresap till his death in 1797, but though he left two sons and three daughters, none of his descendants are now living in Brownsville or vicinity.

The year after the foundation of the town, it is said to have had a population of six hundred, which was more than Pittsburgh could boast of at the same date. Nor need we wonder at this, for it derived its importance from the emigration to the west; and as people had to go by water after crossing the mountains, it was easier to travel the distance from Brownsville to Pittsburgh by that means than it was to go by land; and

the more so as the roads of that day were very indifferent at best, and almost impassable during a great part of the year.

The foundation of the town rendered the opening of stores necessary and feasible, where people could obtain much of the merchandise which they had formerly to send for to the east of the mountains. Among the first to open a store in the modern sense of the term was Jacob Bowman, the merchandise for which was carried over the mountains on packhorses. Says an account of this means of transportation :

Two men could manage ten or fifteen horses, carrying each about two hundred pounds, by tying one to the other in single file ; one of the men taking charge of the lead horse to pioneer, and the other the hinder one to keep an eye to the proper adjustment of the loads, and stir up any that appeared to lag. Bells were indispensable accompaniments to the horses, by which their position could be easily ascertained in the morning when hunting up, preparatory to a start. Some grass or leaves were inserted into the bell to prevent the clapper from operating during the travel of the day.\*

But with the increase of travel and the settlement of the country, the roads underwent a much needed improvement, which fitted them for heavy wagons, and dispensed with the more laborious and expensive packhorses. "The first wagon load of merchandise that was brought over the mountains on the southern route, or that traversed by the National road," says Mr. Sherman Day, "was in 1789. They were for Jacob Bowman, who had settled at Brownsville as a merchant in 1787. The wagoner was John Hayden, who also re-

sided in Fayette county. He drove four horses, and brought out about twenty hundred pounds, for which he received three dollars per hundred, and was nearly a month making the trip to and fro, from Hagerstown, Maryland, a distance of about one hundred and forty miles."†

When the post-office was opened, January 1, 1795, the same Jacob Bowman was appointed first postmaster, a position which he continued to fill for thirty-four years, till removed by President Jackson. His son, Nelson B. Bowman, now occupies a house on an eminence commanding the Monongahela, where Nemacolin's wigwam is said to have stood.

Toward the close of the last century Brownsville was noted for its extensive shipment of millstones, quarried in the Laurel Ridge, to Kentucky and other points in the west ; and as many as thirty or more pairs might frequently be seen on the wharf at a time waiting transportation. The place also attained notoriety, on account of the part it took in the excise troubles, commonly known as "the whiskey insurrection," in 1791-4. Immediately after the passage of the act imposing a tax on distilled liquors, a spirit of opposition began to manifest itself, especially in western Pennsylvania. The feeling grew, and on the twenty-seventh of July, 1791, a meeting was held at Brownsville to consider the growing troubles of the western district of Pennsylvania. This meeting, which was attended by influential and able men, agreed to a

\* 'Day's Historical Collections of Pennsylvania,' p. 343.

† 'Historical Collections of Pennsylvania,' p. 343.

convention of representatives of the five counties of Washington, Fayette, Allegheny, Westmoreland and Bedford, to be held in Washington on the twenty-third of August. The convention was held, but it does not enter into the scope of this paper to inquire into its results.

Brownsville was incorporated as a borough by an act of assembly, passed December 14, 1814, and approved January 9, 1815. An election was held at which a burgess, a town high constable, and seven councilmen were chosen. "On the eighth of April, 1815," says an account of the proceedings, "the burgess and town council met at the office of Michael Sowers, esq., and took the oath of office and proceeded to the council room, in Basil Breashear's tavern, where William Hog was elected president of the council, and John McHaslip, clerk."

But the prosperity of the town was short-lived. The growing importance of Pittsburgh soon attracted attention, and the route of emigration by way of Brownsville was to a great extent aban-

doned, while there was nothing to act as an offset to this loss, nor has there been since. The opening of the southern turnpike early in the present century benefited the town for a time; but the construction of the Pennsylvania canal on the north, and the Potomac canal on the south, again drew nearly all traffic from it, and left it to depend on the trade of the surrounding country. It was the intention to make it the point by which the Baltimore and Ohio railroad would ship goods from Cumberland to Pittsburgh, when that road was completed to the former city in 1842; but the expectations awakened were not to be realized. As an evidence of the tardy growth of Brownsville, the following figures may be taken. In 1786 it was said to have a population of 600; in 1810 it had but 698; in 1840, 1362; and in 1880, 1489. Its future promises to be as uneventful as its past, since it emerged from the passing importance it attained in the latter part of the past century.

A. A. LAMBING.

## ABUSE OF INDIAN NAMES—THE REMEDY.

A COMMUNICATION from E. M. Haines, in the *Chicago Herald* of January 22, 1887, calls attention to the misapplication of Indian names growing out of not understanding them, as well as to the gross misspelling and bad pronunciation of them. Scarcely any of our Indian names of places are properly spelled or pronounced.

The main reason for this is that the forms of our Indian names come to us mainly from French sources—French priests, French traders, French explorers, French *coureurs*, and French adventurers of every sort. Canada and the country west of the Alleghany mountains, including the northwest as well as the southwest, were overrun by the French, first, and the form of whatever names have been preserved to us has been handed down to us in the record of their journeyings. Even in the extreme east, the dictionary and grammars of the Abnaki were compiled by the French; nearly all that we know of the Iroquois is due to the French priests among that people, and the same class have similarly preserved for us what we know of the Huron. In Pennsylvania the German missionaries did a similar work; and saving the names along the Atlantic seacoast, which come to us through English sources, our original authorities, for words in the Indian languages, are mainly either French or German.

Some of the consonants in both French and German and nearly all the vowels have different powers to the same letters in English. *A* in those languages has the sound of *a* in far; *e* the sound of *a* in fate; *i* the sound of *e* in be; *o* that of *o* in no; and *u* that of our *oo* in boot; while *w* has no legitimate existence in French. The French usually used *Ou* for *W*, as in Wisconsin, which they spelled Ouisconsin, and sometimes they substituted *Gu*, as in Guyandotte, for Wyandotte.

The result is that we have in some cases preserved the French spelling with an English pronunciation of the vowels, as in *Miami*, while in *Maumee* we have preserved the French pronunciation with an English spelling. The *Maumee* was originally the *Miami*. "The *Miamis*," wrote Charlevoix in 1721, "are divided into three villages, one on the St. Joseph, the second on another river which bears their name and runs into Lake Erie [long called the 'Miami of Lake Erie,' now the Maumee,] and the third upon the Wabash." Wherever the French spelling has been retained the English pronunciation is pretty sure to prevail.

But there was no standard authority for spelling even among the educated priests, and each man spelled an Indian name as his ear caught it. Most of them spell the same name differently every time they put it on paper, and



each one spells Indian names differently from everyone else, because they fell upon his ear differently. The Wyandots, for instance, are called by one Wandats, by another Owandats, and by others Wendats, Wandots, Wyandots, Guyandots, and so on. Jonquiere speaks of a place called "Ayonontout," and Lewis Evans' map of 1755 gives the same place as "Iunundat." Jonquiere also gives us "Otsanderket" for "Sandusky." Alequippa's town, on the Allegheny, above Pittsburgh, is spoken of by some writers as "Lequeepees," while others write it "Aleqipa." Spelling by any rule in the eighteenth century appears to have been one of the lost arts; and the variations are so wide that it is difficult, sometimes, even to guess what is meant with any reasonable degree of certainty. Heckewelder and the Moravian missionaries generally spelled with more system, and always followed the German forms strictly.

Mr. Haines speaks of the misapplication of Indian names, as in *Mendota* (Dakota for "forks of the river"), applied to a city in Illinois upon a high prairie, and not near *any* stream, much less in the forks of one. But this comes from a mere sentimentality in selecting what was thought a pretty name without regard to its fitness. We find the same foolish practice in applying English names. For instance, Freeport, in Pennsylvania, is not a port at all, nor is Coalport, nor Port Allegheny; and Port Matilda and New Freeport are both inland places, innocent of running water. Indian names are not the only ones misapplied.

*Nokomis*, "my grandmother," and *Winnebago*, "people of the dirty waters," were applied to places in Mr. Haines' state because they sounded well, and not because they were fit. People from Pennsylvania going into new territory in the west and building up towns will call them "Harrisburg," "Reading," and "Carlisle," because they are too barren of invention to form new names, and hence apply those they are most familiar with.

Various sections of the west undoubtedly present many Indian names that do not in any wise belong to the regions where they are now to be found. *Tallula* belongs to the South, and is totally misplaced in Illinois, and there are many names from New England, New York and Pennsylvania to be found in Ohio, Indiana, Illinois and Missouri which have been applied by immigrants without a why or a wherefore; and it is annoying to come across an Iroquois name, or a Cherokee one, for that matter, in a country where the aborigines were all of Algonquin stock.

Perhaps, also, the mixture of dissimilar Indian tribes in various sections may have had something to do with it. In reading the early accounts of the history of the region about Pittsburgh, for instance, the student is amazed to find Indian settlements close together where there was not the slightest degree of kinship. There is a wide dissimilarity in language and in habits between the Iroquois of New York, and the Algonquin tribes of Pennsylvania; yet the first travelers on the Allegheny found Iroquois settlements adjoining towns of

the Shawanese and Delawares. How they managed to understand each other easily enough to make intercourse free is a little hard to comprehend; and a mixture of names of places, as well as a perversion of them, need not be surprising. The Iroquois had a free range over most of the territory north of the Ohio, as well as the Shawanese, Delawares, Miamis, Hurons, Pottowattomies, Chippewas, Ottawas, Illinois, Winnebagoes, Sacs and Foxes, and other tribes. There need be no wonder, therefore, that Iroquois names are found in this region as well as Algonquin ones. But Cherokee and Sioux names have no legitimate place among them: *Mendota* and *Tallula* are as much out of place in Illinois as Rome, and Utica, and Florence, and London. Yet they all get mixed up together.

Speaking of the *Sioux* reminds me of the queer way such names have of becoming fixed in a language. The people whom we know as *Sioux* (Soos) do not recognize the name as belonging to themselves. Their real name is *Dakota*, "the leagued people." To the Chippewas, however, they were known as *Nau-da-wis-sou*—"enemies;" and the French seized the last syllable alone, to indicate them, and spelled it "*Sioux*," and by that name they will be known for generations to come.

Mr. Haines also refers to *Milwaukee* as an instance of corrupted spelling. In some of the Algonquin dialects there is no letter L made use of; in others it is used freely. The Delawares used L with ease, but in some of the western dialects it is not used at all. The stu-

dent of names, in trying to analyze *Milwaukee*, can account for *aukee*, easily, as it stands for "earth," or "land;" but he will boggle over *Mil* a long time, and fail, with all his efforts, to find any word or root or particle that is of kin to it. Whether the man who first reduced the name to a form, mistook the pronunciation of *Min* for *Mil*, or whether the transposition of *l* for *n* was in accordance with Grimm's law, cannot here be determined, but probably it was a misapprehension of the sound. The proper word used here was *Minno*, "good," and the name should be "Minno-aukee"—"good land," and not Milwaukee. As to the *w*, it is simply superfluous. Mr. Haines supposes that it was thrown in for euphony, it being a rule, he says, where two vowels came together, to put a consonant between, for euphony.\* But, in the first place, the Indian languages make no pretense to nor effort at euphony, and in the second place, *w* is not a consonant, but always a vowel; so that the insertion of it here would bring *three* vowels together. There is, in fact, no need of the *w* at all. *W* has the sound or force of our *oo*, and the *o* in *Minno* supplies that force as fully as *w* can. *Minno-aukee*, if heard for the first time, would convey the idea of something like *w* between the two words, and it was that,

\* Dr. Trumbull, a recognized expert in the Algonquin languages, ridicules the idea of letters inserted for "euphony." He says the Indians never added letters for the sake of smoother effects in pronunciation. Every syllable, and every contraction, even if the contraction leaves but one letter of the original word, has its own meaning, and no letters or syllables without meaning were ever used.

presumably, that suggested the use of *w*. The name, as it now stands, and as it is likely to stand, is misleading; but it is of no use to growl at its deceptiveness.

It would be a good thing for future generations if some one would compile all that has been written, at times, about the origin, spelling, pronunciation and meaning of Indian geographical names, together with grammars and dictionaries of the various Indian languages; but such books would not pay, and men do not labor at such work without remuneration of some sort. The Smithsonian Institute is the proper authority to undertake it, and I have heard that it has the work in progress. It has already published a copious dictionary of the Dakota, but I know of no other work actually completed. The dictionary of the Abnaki still remains in its original French, as do compends of Iroquois and Huron roots, and a similar dictionary of the Delaware remains in the original German manuscript in a Philadelphia library. There ought to be some compilation accessible of the southern Indian languages, such as the Cherokee, Choctaw, Seminole, etc., but there is not, at least none to my knowledge. There are various fragments of information about them to be found, but all are tantalizing in the meagreness of what they convey. I recollect reading a long disquisition, by a competent scholar of the Cherokee and Choctaw, upon the meaning of *Alabama*; but after discussing many disputed interpretations it ended by saying that the author was sure it did

not mean "here we rest," but failed to give any clue as to what it *did* mean. In the meantime everyone accepts the discarded meaning as the correct one.

All this difficulty, with much other similar in kind, grows out of the want of some standard authority to appeal to. There is, at present, no sure source of information to consult, and what authorities are at all accessible are scarce and hard to find. If you go into any library, unless you know what books to ask for, you will consult the catalogues in vain. The books on Indian languages are not classified, and much of the knowledge being fragmentary, is hid away in magazines and public documents, to find which the library indexes give no clue. When some competent man gives his attention to gathering up this scattered information, and some competent authority, such as the Smithsonian Institute, undertakes to put it in permanent and accessible form, there will be less excuse than there now is for the general ignorance about the proper spelling and pronunciation of aboriginal names and their meaning.

The confusion in orthography is not, however, confined to Indian names. An English writer, discussing the probabilities of war in Europe, and alluding to Prague and to the man so well known to us as John Huss, says the people of Prague still refer to him as *Goose*, their *H* having the sound of our *G*. We have adopted the form but not the pronunciation; and it would go hard with us, in spite of the popularity of Mother Goose, to speak of John

Huss as John Goose. Continental names fare as poorly with the English as Indian names do with us.

Indian names, properly, should be confined to the spot which gave them origin, instead of being transplanted, hither and thither, to suit the whims of people either barren of invention or captivated by a sound; and I heartily wish there was some way of preventing

the application of names with well-defined meanings to places to which the meaning is in no way adapted. *Winona*, the first born, sounds well when applied properly to a child; but when given to a straggling village in the back woods, it is so devoid of meaning that one could heartily wish the village had never been born.

RUSSELL ERRETT.

### BANKS AND BANKERS OF CINCINNATI.

HON. WILLIAM MEANS, PRESIDENT OF THE METROPOLITAN NATIONAL BANK.

Just eighty years have elapsed since the Miami Exporting company was incorporated—the first bank organized in Cincinnati, and, indeed, in all the territory then north and west of the Ohio river. In the beginning, 1803, it was partly a bank and partly of a commercial character, having in view the promotion of trade on the river; but in 1807 it engaged exclusively in the banking business. Its office was in a two-story frame building on the public landing.

The next enterprise of the kind was the Farmers' and Mechanics' bank, incorporated in 1812, followed in 1814 by the Bank of Cincinnati, and in 1817 by John H. Piatt's banking company and the founding of a branch of the Bank of the United States. Speaking of the latter, the late General James Taylor said: "It was a large sized shark as it ate up all the other banks," so that in 1829 there were no banks in Cincinnati except that vast monopoly.

But in the latter year were incorporated both the Commercial bank, yet in operation, and the Savings Bank of Cincinnati, which did not survive long. In 1833 came the Franklin, and in 1834, the Lafayette, both banks having continuously kept open doors to the present time. The celebrated Ohio Life and Trust company was also organized in 1834.

This, in brief, constitutes the first period in the bank history of Cincinnati.

The second period extends from 1835 to 1861, when the war came which rendered a National currency a necessity—perhaps the chief blessing which followed the war—if blessings ever follow—

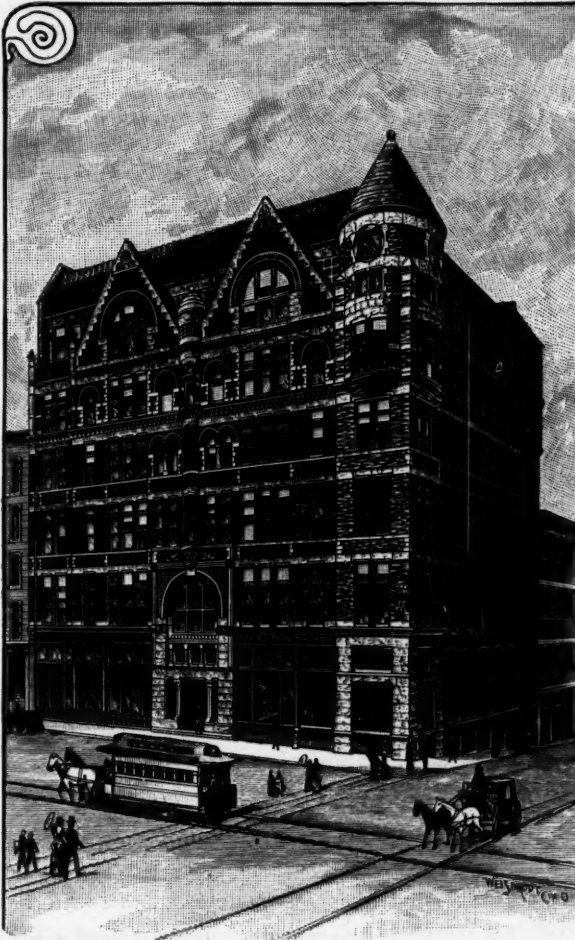
The intestine shock,  
And furious close of civil butchery.

The third period dates from the introduction of the National bank system. The Metropolitan National bank was organized July 15, 1885.

Its serial number is 2542, and its



place of business in the United Bank building, southeast corner of Walnut and Third streets.



UNITED BANK BUILDING, CINCINNATI, O.

The imposing interior of this flourishing bank exceeds in commodiousness and elegant finish anything of the kind

in the Ohio valley; while the ornate and commanding exterior, when contrasted with the pioneer bank building

occupied by the Miami Exporting company down on the river front, affords a striking illustration of the marvelous growth and solid financial prosperity of Cincinnati.

THE PRESIDENT, HON  
WILLIAM MEANS,

is a banker by name and business education. He belongs to a family of bankers, distinguished in England, as well, for the names it gave to the roll of merchants and bankers of London, one of whom was Baron William Maines, who founded a banking house in Lisbon, Portugal, "where (up to 1771) it had subsisted with great reputation for nearly a hundred years."

After acquiring a college education at Farmers' and Marietta college, from the latter receiving the

he was general manager of the iron furnaces and coal works of Means, Kyle & Company, and also acquired a practical knowledge of banking with the old firm of Dugan & Mackoy, Portsmouth, Ohio, and at the Bank of Ashland, Kentucky. He came to Cincinnati in 1868, and has resided and been engaged in business here since that time. In March, 1881, Mr. Means was nominated for the office of mayor of Cincinnati by the Democratic city convention, and in the April following was elected by more than two thousand majority, although every other candidate on the ticket was defeated.

His official career has been described by an accomplished writer as "marked by unusual executive ability. He fearlessly enforced honesty, economy and efficiency in all departments of the city government.

"Modest, calm, strong and confident, he never feared to face a responsibility, nor turned aside from duty in order to swim with the current or go with the multitude. He is known to be sensitive and high-spirited, but is never more quiet and deliberate than when deeply moved." He "bore his faculties so meek, and was so clear in his office," that he left it with the regrets of all who had elevated him to the position. Mr. Means declined a reëlection, and, although his name was prominently mentioned as a strong and available candidate for congress in the First district, and also for governor of the state, he retired from politics to assume the presidency of this bank, to the duties of which he is giving his undivided attention.

The present advanced and commanding position of the Metropolitan owes much of its prosperity and much of the unlimited confidence it enjoys in the business community to his considerate judgment as an able and experienced financier.

Mr. Means has served as vice-president of the chamber of commerce, was a commissioner of the Cincinnati industrial exposition five years and chairman of the committee on rules, and was actively engaged with others in securing the erection of the music hall and exposition buildings. He is also one of the thirty managers of the American Iron and Steel association, with its headquarters in Philadelphia, and is president of a number of large corporations. While he was manager of furnaces and mines his men engaged in but one strike, which was so satisfactorily settled there was no further disagreement. He is also president of the Ohio club, a leading Democratic organization in which are enrolled the most prominent members of that party in the city.

The business capacity of Mr. Means is recognized in his appointment to administer important trusts, and the obligation has in every instance been faithfully discharged. A little incident which happened during the war will somewhat illustrate the character of the man as told by another writer:

A camp was organized at Portsmouth, during the Morgan raid through Ohio, in which several thousand men had gathered. Mr. Means, who was managing an iron furnace in the neighborhood, had been enrolled with his men in a company commanded by an ambitious young farmer named

Boynton and ordered into camp. Sam Culbertson, a clerk at the furnace, and also a private in the same company, was one night engaged while in a joyful condition in the work of decorating the town with the sanguinary colors when the proceedings were interrupted by a guard and his arrest followed. "Where do you belong?" demanded the guard. "I am on Mr. Means' staff," answered Sam. "Who is Mr. Means, and what is his rank?" asked the guard. "He is a private in command of this camp," said Sam, with emphasis, and the guard believed and released him at once.

#### ANTIQUITY OF THE MEANS OR DE MAINES FAMILY.

The author of a history of the "Norman People," in commenting upon the surname Means, says:

Mains, Means, Maynes, from DeMaine, DeMayne, DeMayenne, in Maine, a powerful baronial house of which Walter de Maine occurs in 'La Roque I,' pages 159 and 160. Joel de Maine had a vast barony in Devonshire, and his family long continued there. In 1165 Walter Fitz Joel de Maine held a barony of twenty-one knight's fees in Kent. Many branches of these houses remained, the name changing gradually to Mains, Means and Maynes. Hence the Lords Newhaven."

This information fixes the origin of this family at the period of the Norman conquest of England, A. D. 1066. But its history is susceptible still further of elucidation. To do so, we cross the British channel and turn the pages of the history of Brittany, Maine, Anjou—all comprised eventually in the territory of the Normans—"that mighty race on which the historian can not dwell without rising to the level of poetry—these rivals of the Saracen, the Roman and Macedonian conquerors, whose extraordinary mental and physical energies have exercised a profound and enduring influence over the world; whose grand-

eur consisted not in the length of his rent-roll, the brilliancy of his equipages, or the beauty of his palaces or parks, but in the strength of his fortresses and the numbers of his armed and disciplined retainers and feudal tenants who followed his standard—whose splendor consisted in his power."

#### THE DE MAINES OF NORMANDY

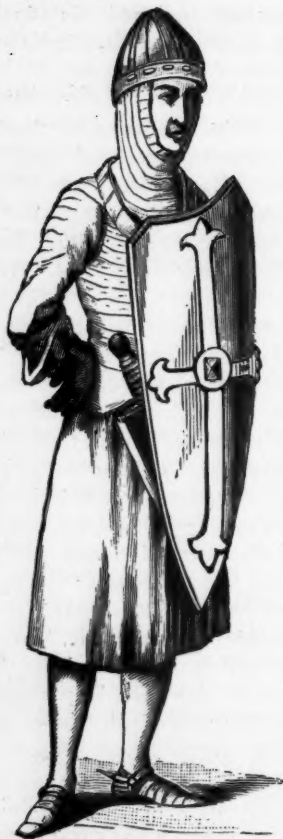
Derived their descent from the Counts le Maine, who descended from Charlemagne. Gautier le Blanc, a Breton nobleman, called "Drogo of the Vexin" or "Lord of the Precipitous Mantes," married Adele, daughter of Heribert, Count of Maine; they were the parents of Lord Walter de Maine, who married Goda, daughter of Ethelred II., by Queen Emma, the Norman duchess. Their son, Ralph de Maine, became, under his uncle, Edward the Confessor, the great earl of Hereford—the "French Earl," as the Saxons called him, "gorged with English wealth and English honors," who founded Sudley and Ewyas castles, Gloucestershire; whose son, Harold, left two sons, John, Lord Sudley, and William de Maine, Lord Tracy, whose descendants continued in possession of Sudley and Ewyas castles for nearly four hundred years, and of Teffont Ewyas-Manor House, Wiltshire, to the present day.

Of this noble family was Lord Geoffrey De Maine, whose name is inscribed on the Roll of Battle Abbey as one of the companions of William the Conqueror.

Alluding to the battle of Hastings,

fought October 14, 1066, the author of *Roman de Rou* says :

Le Sire Goeffrey de Maine,  
An old and good Knight,  
And Onfroï de Bohun,  
Were both in the fight.



COUNT HELIE DE MAINE.

A. D. 1087.

From another author we quote :

For he was in the battle against Harold, and, like a giant, fiercely shivered two spears into pieces, overthrowing the rebels right and left, whence for himself

he worthily his name, not without merit, rendered glorious.

This Geoffrey married Hildeburg, Countess of Nantes. Their son Ernulphus de Maine, was one of the standard-bearers of William the Conqueror at Hastings. "It is recorded," says Burke, "that Ernulphus de Maine accompanied William the Conqueror as standard-bearer, held various offices of great trust and profit, and received in rejuital for his valor and prowess considerable grants of land in Devonshire, and that Joel de Maine, his son, obtained from Henry I, property in Kings Nymut, near Chumleigh, in the same county, which King John seized upon the separation of Normandy from England."

The same author says "that the Maines acquired great patronage and frequently distinguished themselves in the wars of York and Lancaster."

Another member of this family was Helie, Count de Maine, "the noblest man in Gaul," who was the first to use the *cross* in heraldry, as a charge upon his shield. Count Helie's daughter, Eremberga, married Fulke, count of Anjou and king of Jerusalem, whose son Geoffrey le Bel, born in Le Mans (Le Mans—a form of which is Le Means—the capital city of Le Maine), became the illustrious Geoffrey Plantagenet—ancestor of the Plantagenet kings of England. In his defiant answer to William II., alluding to Le Mans, Helie said :

I possess it from my forefathers by inheritance, and by God's grace I shall transmit it to my children. Harken, ye nobles here present. Heaven inspires me. I will not put aside this *cross* which,



after the manner of pilgrims, I have put on. Rather I will place it on my shield, on my helmet, on all my other arms. I will put it on my saddle and on my bridle. My horse and I shall be distinguished by this holy sign. They who fight against me will fight against a soldier of Christ.

BARON JOEL DE MAINE.

Burke's *General Armory* says :

The De Maines of Devonshire descended from the ancient barons of that name who inherited the province of Maine in Normandy, of whom was Baron Joel de Maine, the son of Ernulphus de Maine, the Standard-bearer."

This noble Norman's misfortune would be a fruitful theme to dwell upon as an illustration of the vicissitudes of families. After building three Norman castles—one in Maine and two in Devonshire, England, he became a crusader and was killed at the siege of Acre on the coast of Palestine under Richard I.—Cœur de Lion.

On his breast a bloodie cross he bore,  
The deare remembrance of his dying lord,  
Upon his shield the like was also scored.

Since which time the cross gules, or *red cross*, has either been a charge upon the escutcheon, or the *crest* of the De Maines family. Gaspey, the historian, says :

It was during the crusades that the custom of using coats of arms was first introduced into Europe.

The Knights, cased in armour, had no way to make themselves known and distinguished in battle but by the devices on their shields, and these were gradually adopted by families who were proud of the pious military enterprise of their ancestors.

The De Maines suffered greatly in the subsequent turbulent times. During the wars of the Roses it was the policy of

the Yorkists to cut off the nobility and gentry—in order to enrich themselves by the forfeitures of the landed aristocracy. "Through this means," says the historian, "and the fearful loss of life on the battlefield and on the scaffold, very many of the chief historic houses were destroyed. Of the survivors some that bore the territorial prefix 'de' dropped it, having lost the inheritance to which it applied. It seems to have been the principle of the Tudor kings to break down the ancient families of Norman origin, and consequently, during their rule, the vicissitudes of the Howards, the Percys, the De Cliffords, the Dudleys, the De Maines, the Nevilles and the De la Poles, are full of melancholy and pathetic interest. The great civil war of Charles I. ruined both Cavalier and Puritan. Of the latter class was Judge Simon (de) Maine, M. P., one of the Regicides, who died in London Tower while awaiting the death sentence.

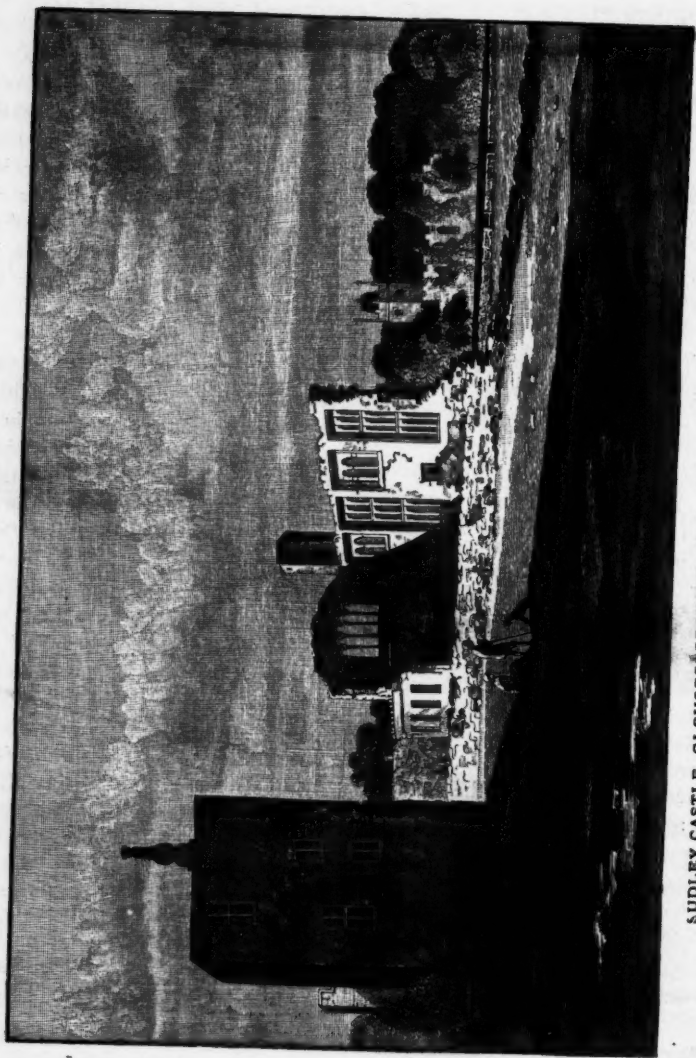
In 1623 the name of Pierre de Maine occurs in a list of the dead of "James Cittie," and in 1679 the names of Andrew and Mary Maine appear in the register of the parish of St. Michael—all in the colony of Virginia, and members of this then distracted family, who thus found rest in—

The undisturbed and deep  
Tranquility of endless sleep,

Though they found their graves upon the American continent three thousand miles from their ancient hereditary Norman domains.

SUDLEY CASTLE.

As an illustration of the history of



SUDLEY CASTLE, GLOUCESTERSHIRE, ENGLAND.—RUINS AS THEY WERE IN 1826.

the De Maines family we introduce a picture of Sudley Castle, Gloucestershire, England, as it appeared in 1826, concerning which Fuller said: "Of subjects' castles it was the most handsome habitation, and of subjects' habitations the strongest castle." On its site first stood a Norman *donjon* built in 1050 by Harold, Lord Sudley, son of Ralph de Maine, Earl of Hereford, son of Lord Walter de Maine, by Goda, sister of King Edward the Confessor.

In 1280 the lordship descended from Bartholomew de Maine to his son John de Maine, who, as Lord Sudley, was summoned to parliament from the twenty-eighth of Edward I. (1300) to thirteenth of Edward II. (1320) inclusive. He accompanied Edward I. in several warlike expeditions, and in the next reign was Lord Chamberlain to Edward II. He died without issue, leaving Sudley to his nephew, John de Maine, who married Eleanor, daughter of Lord Scales, by whom he had issue two daughters and a son John de Maine, who, in the fortieth of Edward III. (1367), followed Edward the Black Prince on his French expedition, but died in the following year without issue; and on the division of his property between his sisters, Sudley Castle and Manor were allotted to his sister, Joan de Maine, who married William de Boteler.

Sudley descended from their son, Thomas de Boteler, to his second son, Ralph, who re-built Sudley Castle (the ruins of which are seen in this illustration) upon the site of the castle "which

had been occupied by his ancestor Harold de Maine."

#### THE MAINES OR MEANS FAMILY OF AMERICA.

John (de) Maines, or Means, a native of Exeter, Devonshire, left England and settled in the Pennsylvania colony in 1735. A descendant of Baron Joel de Maine, he bore a name made illustrious by the deeds of his ancestors. Doubtless some of his relatives had preceded him, for the Means family of Scotland had suffered greatly during the struggles of the Covenanters. We find "this scion of a noble house" soon after his arrival, in the Scotch Presbyterian settlements—one of as noble and heroic a band of exiles as ever peopled a country. Dropping the "territorial prefix, de," John de Maines is henceforth *John Maines* or *Means*, who, upon his death, left a son William Means. Owing to the French and Indian wars William Means removed to South Carolina shortly before the revolution, and located upon a plantation near Spartansburg, where he married Anne Newton—a relative of Sir Isaac Newton—also of Norman descent, the founder of the family being William de Nieuton, mentioned in old Norman Rolls in A. D. 1198. Their son, Colonel John Means, was much in public life, serving several terms in the legislature of South Carolina, and as colonel of the militia in the War of 1812.

Colonel Means owned slaves and maintained a large plantation; but, in time, he yielded to his conscientious convictions, became a practical eman-

cipationist in the liberation of his slaves, and, in 1819, removed to Ohio and settled in Adams county. From 1826 to 1828 Colonel Means was a member of the Ohio legislature. He died in 1835, leaving a reputation as a man and a citizen in perfect accord with his honorable descent and his elevated disinterested love of country and of human kind. In South Carolina, Colonel Means married Anne Williamson, also of Anglo-Norman origin.

Their son, Thomas Williamson Means Esq., is the venerable banker and capitalist, so widely and favorably known in the west. When he lately retired from active business he was perhaps the oldest banker in Ohio, and one of the largest iron manufacturers in the Ohio valley. In 1829 Mr. Means lit the fires of the first iron furnace opened in the

Hanging Rock region. He organized and was the first president of the Second National Bank of Ironton. Mr. Means married Sarah Ellison—also of Norman descent, the name being variously spelt Ellison, Allison, Alanson, etc.; variations of de "Alenson," of Alenson Castle, in Normandy.

The reader will observe the historical coincidence that the *De Maines* and the

*De Alensons* originated in Normandy,—Castle Maine and Castle Alenson being within five miles of each other, during the wars waged by the Normans for the Conquest of Le Mans.

Thomas Williamson and Sarah Ellison Means are the parents of Hon. William Means of Cincinnati.

#### TEFFONT PLACE.

The summer residence of the Hon.

William Means (or "The Woods," as it was called by Murat Halstead, Esq., editor of the *Cincinnati Commercial-Gazette*, when visiting that beautiful country seat), is situated upon the banks of the little Miami river in Green county, Ohio. In speaking of the well-known watering place, Yellow Springs, the author of 'Illustrated Cincinnati' said:



WILLIAM MEANS.

In the center of the village is a park of twenty acres, which for magnificence and grandeur exceeds any grounds of the kind in size in Ohio. The foreign traveler, while gazing upon it, is reminded of those noble grounds so rich in luxuriance and shade to be seen only in England. In the middle of the park rises the elegant and spacious mansion of the Hon. William Means.

As an illustration of the history of this family, two views are presented—one of "Teffont Place," and the other,



"Teffont-Ewyas Manor House, Wiltshire, England," from which the former derived its historic name.

"Teffont" is from the Norman-French *De Fonte*—a spring. In a transferred sense it means "the stone vessel in which water for holy baptism is contained, hence, a church or chapel." Richard II. said: "That name was given me at the *font*."

An English writer says the lordships of Tefonte, when Domesday Survey was made (1087), belonged to Arnulphus de Maine, the standard-bearer. That Arnulphus was also called by the Saxons, Aluredus, or Alured de Merleberg (now Marlborough), thus named from Merleberg Castle in Wiltshire. After the death of Baron Joel de Maine, the son of Alured as a crusader in the Holy Land, this manor passed to the descendants of Robert, Le Comte De Eu, or De Ewyas, Lord of Liddiard, another lordship of Baron de Maine. The town of Eu was in the province of Caux, Normandy, and situated on the left bank of the river Eu, a point well known to English tourists and historians, for there William the Conqueror and Matilda of Flanders were married.

Teffont Ewyas, therefore, means the "Font or chapel of Ewyas," being originally a priory dedicated to Comte, or Earl de Ewyas, who was a grandson of Richard II.

"Teffont Place" alludes both to Yellow Springs, as a popular watering place, and to the origin, suggesting the antiquity and the very great respectability of this Franco-Norman family.

Teffont Ewyas Manor House passed,

by female intermarriage, to the Hungerfords, the Hastings and the Lees, and at the beginning of the seventeenth century back to John de Maine, Esq., in whose descendants it has remained ever since, one of the latest owners and occupants being John Thomas Maine, Esq., F. R. S., F. S. A., etc., of the Inner Temple, Barrister at Law.

Aside from family associations, Mr. Means, wittingly or unwittingly, paid a high compliment to the Ohio valley when, twenty years ago, he selected Teffont Place for his summer residence, being, according to his extended observation, all that could be desired when relaxation from business is sought, and where self and family may find rest and retirement—

Amid the oak trees  
Stirless in the unbreathing calm,  
And all the lush-red roses  
Drooped in dre. m.

Assuredly this must be the realization of a dream of a perfect rural, if not baronial, mansion of a descendant of a family whose progenitors founded Sudley Castle and Teffont-Ewyas Manor House centuries before the thought of an American Republic disturbed the visions of the Cavalier, or thrilled with hope the heart of the Puritan.

Heraldry has been defined as a symbolical and pictorial language, in which figures and colors are employed instead of letters, each heraldic composition having its own definite and complete signification, conveyed through a direct connection with some particular individual, family, dignity or office.

In the De Maines coat of arms the



MEANS FAMILY MANSION OR TEFFONT-EWYAS MANOR HOUSE, WILTSHIRE, ENGLAND.

Manor and Residence of the Maines Family (Including the Hungerfords, the Hastings and the Lees, related by intermarriage) since A. D. 1086.

crest consists of a *crown*, a *hand* and a *cross*.

The *cross gules* alludes to the "bloodie cross" worn on the breasts of crusaders—in this instance by Baron Joel de Maine when he was killed in the Holy Land. The *dexter hand*, erected, is always "borne by the De Maine family"—De Maine being the French for *the hand*:

"Henri tenant l'oriflamme des Maines de St. Denys."

The spear heads or pheons remind



WILLIAM THE CONQUEROR, AND ERNULPHUS DE MAINE, HIS STANDARD-BEARER, A. D. 1066.

the reader of the *two spears* which Le Sire Geoffrey de Maine "fiercely shivered" in the battle of Hastings. The fleur-de-lis, on an azure field, carries the mind back to the Franco-Norman origin of the family, and recalls the beautiful Mediæval tradition that an angel descended from heaven bearing an "azure shield charged with the flower of the lily" and presented it to Louis VII., which henceforth became the royal insignia of France in place of the sacred oriflamme. The motto—

*Virtuti fortuna venit*—commemorates the chivalrous deeds of ancestors in many conflicts between Normans and Saxons during the crusades, and in the civil and religious wars of the following centuries which resulted in giving a Christian civilization to England—England, still bearing the arms of William the Conqueror, in the dexter chief of her royal shield, maintains the advance of all the nations of the earth in promulgating the Gladstonian doctrines that the propagation of religious truth should be one of the ends of government as government.

#### ARMORIAL BEARINGS OF THE DE MAINES FAMILY.

Among the sources of genealogical information, armorial bearings have long been the unerring guides to the elucidation of family history, and frequently when all other channels fail, the genealogist owes to heraldry the indications which lead him to the object of his research. Varying orthography, in the spelling of a surname, where there is armorial identification, never affects consanguinity.

It is true that the age of chivalry is passed, but the feelings which gave it birth will endure so long as "truth and honor, freedom and curtesy" are held in men's estimation. "It was chivalry," said Edmund Burke, "which, without confounding ranks, produced a noble equality, and handed it down through all gradations of life. It was chivalry that mitigated kings into companions, and raised private men to be fellows



TEFFONT PLACE, RESIDENCE OF HON. WILLIAM MEANS, YELLOW SPRINGS, OHIO.



with kings. Without force or opposition it subdued the fierceness of pride and power; it obliged sovereigns to submit to the soft collar of social esteem; compelled stern authority to submit to elegance and gave a dominating vanquisher of laws to be subdued by manners."

Memory loves to dwell on the stirring times of the Plantagenets, to recall the gorgeous tournaments and feudal fortress, when—

In rough magnificence arrayed,  
Our ancient chivalry displayed  
The pomp of her heroic games,  
And crested chiefs and tissued dames  
Assembled at the clarion's call,  
In some proud castle's high-arched hall.

"The day is not far distant," says Ruskin, "when the gentle and refining art—the Science d'Armorie—will again be regarded as an essential element of liberal education, and an handmaid to the study of architecture, sculpture and painting." HENRY DUDLEY TEETOR.

#### THE ORDINANCE OF 1787.\*

THE ordinance enacted July 13, 1787, for the government of the territory of the United States northwest of the river Ohio, is one of the ever memorable documents that passed the doors of the old congress. It ranks with the great state papers of 1774 and 1775, that won from Lord Chatham the encomium, "for solidity of reason, force of sagacity, and wisdom of conclusion, under a complication of difficult circumstances, no nation or body of men stand in preference to the general congress at Philadelphia;" with the Declaration of Independence, that should always hang, Lord Brougham said, in the cabinets of kings; with, or rather above, the Articles of Confederation, that, with all their imperfection and weakness, still formed the first constitution of the American people whom, however, they do not name, and contained, as Ban-

croft remarks, the elements for the evolution of a more perfect union.

No act of American legislation has called out more eloquent applause. Statesmen and historians have vied with one another in celebrating its praises. Said Daniel Webster in 1830:

We are accustomed to praise the law-givers of antiquity; we help to perpetuate the fame of Solon and Lycurgus; but I doubt whether one single law of any law-giver, ancient or modern, has produced effects of more distinct, marked and lasting character than the ordinance of 1787. We see its consequences at this moment, and we shall never cease to see them, perhaps, while the Ohio shall flow.

Said Judge Timothy Walker in 1837:

Upon the surpassing excellence of this ordinance no language of panegyric would be extravagant. It approaches as nearly to absolute perfection as anything to be found in the legislation of mankind; for after the experience of fifty years, it would perhaps be impossible to alter without marring it. In short, it is one of those matchless specimens of sagacious forecast which even the reekless spirit of innovation would not venture to assail.

Said the late Chief-Justice Chase:

Never, probably, in the history of the world, did

\* An address delivered before the Ohio State Teachers' Association at Akron, June 29, 1887.

a measure of legislation so accurately fulfill, and yet so mightily exceed the anticipations of the legislators. The ordinance has well been described as having been a pillar of cloud by day and of fire by night in the settlement and government of the northwestern states.

These are abundant reasons why all the people living within the limits of the territory that this ordinance created, and particularly those of Ohio, the first-born of the northwestern states, should commemorate the centennial of the event with which their civil history began. There are special reasons why the teachers of these states, and most of all the teachers of Ohio, should join heartily in such commemoration. The assignment of an afternoon to this purpose by this association, is in keeping with the spirit of the year; and happy should I be could I rise to the level of the occasion, and speak of the great ordinance of civilization and of freedom in a manner suiting its own dignity. New facts, there are none to tell; new points of view, there are none to assume; new interpretations or remarks, there are none to offer; new combinations of old and well-worn material, are all that I have, besides the subject itself, to reward your attention.

What I have to say I shall distribute under three heads.

I. The principal series of events that led up to the ordinance.

II. Its salient features, with remarks upon its authorship.

III. The grander results flowing from its enactment.

The ordinance of 1787 stands at the convergence of three series of important events, that I shall rapidly trace.

The nation that was spoken into being by the Declaration of Independence was federal in territory, as in everything else. It could not control a foot of land, more than it could touch a single citizen. It was as dependent upon the states for a seat of government as it was for a treasury, an army, and a congress. The territories of the states were the territory of the United States. As Virginia put it in her remonstrance of 1789:

The United States have no territory but in right of some one individual state in the Union. The territory of each state from time immemorial hath been fixed and determined by their respective charters, there being no other rule or criterion to judge by.

This was the criterion that the Continental congress applied whenever it defined the national territory; and this was the criterion that, helped out somewhat at the west by the principle of *uti possidetis*, gave us the boundaries of 1783. Whenever a difference of opinion arose at Paris as to boundaries, the British and the American commissioners, indifferently, appealed to the documents that defined the limits of the colonies before the war. Moreover, it is possible that the Nation and the states would have continued coterminous until the annexation of Louisiana, if all the states had been of nearly the same size, or had been bounded on the west by the Mississippi river. But such was not the fact. New Hampshire, Rhode Island, New Jersey, Delaware, and Maryland were all confined to the Atlantic slope; and the five degrees of longitude that Charles II granted to Penn extended out a little distance beyond the forks of the Ohio. The whole

west from parallel thirty-one degrees north latitude to the lakes, and from the Alleghanies to the Mississippi, save a few small settlements in western Pennsylvania, in western Virginia, in Kentucky and Tennessee, on the Detroit and the Wabash, and in the Illinois, was still in a state of nature ; and it was all claimed, and much of it two or three times over, by the states of Massachusetts, Connecticut, New York, Virginia, North Carolina, South Carolina, and Georgia. The division of the states into the two groups made the ultimate disposition of the western lands an inevitable issue, particularly as those lands lay beyond the practicable limits of the claimant states, and were, at the beginning of the war, in the possession of the common enemy. The claimant states were more numerous, more wealthy, and more powerful than the non-claimant states ; they also stood, as respects this controversy, upon the plain Federal proposition that the United States were the states confederated ; but they could not suppress the issue, or prevent its finally being decided against them.

This issue has never been treated by historians with the breadth that it deserves. Next to independence and union, it was the most important question of the Revolutionary period ; and, first and last, it entered into many great issues of the time, as confederation, finance, the National boundaries, foreign relations, colonization of the west, the northwestern and southwestern territories, the admission of Vermont as a state, the navigation of the Mississippi,

and the fidelity of the southwest to the Union.

The first solution of the problem proposed in congress was brought forward by Maryland, October 15, 1777, as an amendment to the Articles of Confederation, then under consideration :

That the United States, in congress assembled, shall have the sole and exclusive right and power to ascertain and fix the western boundary of such states as claim to the Mississippi or South Sea, and lay out the land beyond the boundary, so ascertained, into separate and independent states, from time to time, as the numbers and circumstances of the people thereof may require.

This amendment failed, Maryland alone voting for it, and in its room this prohibition upon congress was adopted :

No state shall be deprived of territory for the benefit of the United States.

The Maryland amendment contained two propositions ; an end to be reached and a means of reaching it. The end was the division of the western country into new and independent states. This was an eminently statesmanlike idea ; although receiving the slenderest support at first, it gained more and more of public favor as the years went by, and it was at last triumphantly carried out, as the map of the lake basin and the Mississippi valley shows to-day. But this was done in a manner very different from that proposed by Maryland. Her proposition was to clothe congress with a direct and immediate jurisdiction over the western country, paying no more attention to the claimant than to the non-claimant states. It was the naked proposition to make congress sole judge of the western limits of seven of the states in the

Union. In effect, this was denying that the claimant states had any title to the western lands, and asserting that such title inhered in the United States. It contained the implication that the United States collectively had territory that did not belong to any of them singly. This theory became quite popular as the war went on, and has been much patronized since. Chief-Justice Chase, for example, says that in opposition to the pretensions of the claimant states, "the congress, as the common head of the United States, maintained its title." Of these claims he pronounces that of the United States "the most reasonable and just," basing his conclusion upon the two grounds that Maryland and those who agreed with her rested their case upon when "the vacant lands" were a living question: (1) That before the war these lands belonged to the British crown, not to the colonies; and (2) that lands "wrested from the common enemy by the united arms, and at the joint expense of all the states, ought by right to belong to congress in trust for the common use and benefit of the whole Union." This is a wholly fictitious view of the matter. Congress never maintained a National title on these or any other grounds, and the United States never appeared as a rival of the states claiming western lands. The end proposed by Maryland in 1777 was statesmanship itself. Some of the reasons given then and since, why the title to those lands ought to vest in the United States, are excellent; but every man who has carefully stud-

ied the history of "the cessions" in the journals of congress, knows that the land problem was worked out on a very different theory. In fact, in 1777, as we learn from the famous resolution of September 6, 1780, soon to be quoted, congress definitively rejected the National theory and chose the Federal theory. The attempt was made once and again to induce congress to override the claimant states, but it always failed. Considering the varying forms in which the subject was brought forward, it is surprising to see with what consistency congress stood throughout on the ground that the Republic was federal in territory. Thus, Mr. Jay, who was sent to Spain in 1780, in the vain hope of negotiating treaties with his Catholic majesty, similar to those negotiated with France in 1778, was instructed to insist upon the Mississippi river as the western boundary of the United States, because it was "the boundary of several states in the Union." And in 1782 a committee of congress, in stating our territorial claims against the king of England, said:

Under his authority the limits of these states, while in the character of colonies, were established; to these limits the United States, considered as independent sovereignties, have succeeded. Whatever territorial rights, therefore, belonged to them before the Revolution were necessarily devolved upon them at the era of independence.

The Nation had indeed another ground of claim to the west in the George Rogers Clarke conquest and in *uti possidetis*; but congress never brought this forward, save as a possible support for the old colonial title. Hence, for congress to follow the



lead of Maryland, as Chief-Justice Chase, in effect, says it did, would have been to cut away the ground under the feet of Dr. Franklin and his associates when they strove for our natural and proper boundaries in 1782. This, Virginia very plainly pointed out in her remonstrance of 1779.

Nor can any argument be fairly urged to prove that any particular tract of country, within the limits claimed by congress on behalf of the United States, not part of the chartered territory of some one of them, but must militate with equal force against the right of the United States in general; and tend to prove that tract of country (if north-west of the Ohio river), part of the British province of Canada.

On September 6, 1780, a committee of congress, to whom various papers touching the land question had been referred, made a report that must here be transcribed in full, but prefaced with the remark that it sets aside the Maryland theory.

That having duly considered the several matters to them submitted, they conceive it unnecessary to examine into the merits or policy of the instructions or declaration of the general assembly of Maryland, or of the remonstrance of the general assembly of Virginia, as they involve questions, a discussion of which was declined on mature consideration, when the articles of Confederation were debated; nor, in the opinion of the committee, can such questions be now revived with any prospect of conciliation: that it appears more advisable to press upon those states which can remove the embarrassments respecting the western country, a liberal surrender of a portion of their territorial claims, since they cannot be preserved entire without endangering the stability of the general Confederacy; to remind them how indispensably necessary it is to establish the Federal Union on a fixed and permanent basis, and on principles acceptable to all its respective members; how essential to public credit and confidence, to the support of our army, to the vigor of our councils and success of our measures, to our tranquillity at home, our reputation abroad,

to our very existence as a free, sovereign and independent people; that they are fully persuaded the wisdom of the respective legislatures will lead them to a full and impartial consideration of a subject so interesting to the United States, and so necessary to the happy establishment of the Federal union; that they are confirmed in these expectations by a review of the before-mentioned act of the legislature of New York, submitted to their consideration; that this act is expressly calculated to accelerate the Federal alliance by removing, as far as depends on that state, the impediment arising from the western country, and for that purpose to yield up a portion of territorial claim for the general benefit; whereupon,

*Resolved*, That copies of the several papers referred to the committee, be transmitted, with a copy of the report, to the legislatures of the several states, and that it be earnestly recommended to those states, who have claims to the western country, to pass such laws, and give their delegates in congress such powers as may effectually remove the only obstacle to a final ratification of the Articles of Confederation; and that the legislature of Maryland be earnestly requested to authorize their delegates in congress to subscribe the said Articles.

This report was agreed to without a call of the states. To make it fully intelligible, I should observe that Maryland had refused to ratify the Articles of Confederation because her views on the land question had not been met. Nor did she ratify them until March 1, 1781, when the New York cession convinced her that the grand end which she had in view would ultimately be gained.

On the tenth of October, 1780, congress adopted a second resolution that deserves to go with the preceding.

*Resolved*, That the unappropriated lands that may be ceded or relinquished to the United States by any particular state, pursuant to the recommendation of congress of the sixth day of September last, shall be disposed of for the common benefit of the United States, and be settled and formed into distinct republican states, which shall become members of the Federal Union, and have the same rights of sovereignty, freedom, and independence, as the other

states; that each state which shall be so formed shall contain a suitable extent of territory, not less than 100 nor more than 150 miles square, or as near thereto as circumstances will admit; that the necessary and reasonable expenses which any particular state shall have incurred since the commencement of the present war, in subduing any British posts, or in maintaining forts or garrisons within and for the defense, or in acquiring any part of the territory that may be ceded or relinquished to the United States, shall be reimbursed; that the said lands shall be granted or settled at such times and under such regulations as shall hereafter be agreed on by the United States in congress assembled, or any nine or more of them.

In the journals of congress, under head of May 1, 1782, will be found a report of a committee, made the previous November, that enters into the merits of the western claims, preferring the claim of New York to that of Virginia; but even this report, which, by the way, was never adopted, does not set up a National claim. What is more, a later report, which was adopted September 13, 1783, expressly declares the intention of congress from the first to have been to "avoid all discussion of the territorial rights of individual states, and only to recommend and accept a cession of their claims, whatsoever they might be, to vacant territory." It was upon this line that the vacant-lands problem was worked out. The states ceded lands, making their own western boundaries, and congress accepted the cessions. Congress indeed declined two cessions, one from Virginia and one from Connecticut, and asked for more liberal ones, which were granted. The word "cession" is the key to the whole history. The equities of the question had their influence. The needs of the common treasury that

these lands, it was thought, would replenish; their acquisition through the expenditure of the common blood and treasure; the benefits that would flow from putting the lands under the general authority—these were potent arguments with the claimant states in making the cessions; but congress never, for one moment, attempted to base upon them a legal title. It is greatly to the credit of Maryland that she brought forward the idea that she proposed in 1777, as it is that she continued to hold it so steadfastly before congress and the country; but it was fortunate that congress never adopted her mode of attaining the end. It is hardly too much to say that had congress attempted to extend its jurisdiction over the west regardless of the claimant states, the Union and the patriot cause would have been hopelessly wrecked.

When the resolutions of September and October, 1780, were adopted, Virginia, under the charter given to the London company in 1609, claimed the whole territory northwest of the Ohio to the lakes and the Mississippi, as well as West Virginia and Kentucky. Connecticut claimed the belt lying between the parallels 41 degrees and 42 degrees 2 minutes north latitude, extending from the western bank of the Delaware to the Mississippi. She based this claim on her charter of 1662. On her charter of 1629 Massachusetts rested a claim to the belt bounded north by the parallel passing through a point three miles north of the source of the Merrimac river, and south by parallel 42 degrees 2

minutes, and in longitude the same as the claim of Connecticut. Massachusetts and Connecticut overlapped Virginia. But more, as though confusion were not sufficiently confounded, New York asserted a claim to the vast region extending from the lower lakes to the Cumberland Mountains, resting it partly on the grant of 1664 made to the Duke of York, but mainly on treaties with the Six Nations.

The resolutions of 1780 bore immediate fruit. On March 1, 1781, New York executed and congress accepted a deed of limitation and cession, which had in fact been authorized in February, 1780, conveying to the United States all New York's right and title to lands lying west of a meridian line passing through the western bent of Lake Ontario. Virginia executed and congress accepted a similar deed to the territory northwest of the Ohio, March 1, 1784; Massachusetts relinquished her claim west of the line that New York had already fixed, April 18, 1785; and Connecticut surrendered hers west of a meridian line 120 miles west of the western boundary of Pennsylvania, September 14, 1786. Here it should be observed that a Federal court, sitting under Article IX. of the confederation, had, in 1781, adjudged to Pennsylvania so much of Connecticut's claim as was embraced in the grant made to William Penn in 1682; and that the New York and Massachusetts cessions left those states to settle their dispute touching the lands within the limits of the charter of 1629, west of the Delaware and east of the meridian running

through the western end of Lake Ontario. The Carolina and Georgia cessions followed in time, but they do not concern us and will not be further mentioned.

Except the Western Reserve and some lands that Virginia had retained in southern Ohio to discharge her obligations to her soldiers, these four cessions gave the United States a clear title to the territory bounded by the lakes, the Ohio, and the Mississippi. This was the original public domain. It was a territory in which all the states had a common interest; it furnished subjects of legislation that were truly National; and it prepared the way for the Constitution. The happy effects of the cessions upon the states, and upon the Nation, cannot be over-estimated; one of them being the escape from the difficulties attending any attempt to adjust the conflicting jurisdictions.

And these cessions are the culmination of the first series of events leading up to the ordinance of 1787.

Previous to the treaty of Aix-la-Chapelle, the English colonies had seemed indifferent to the interior of North America. They had been hemmed in by the Indians and by the French; their tastes had led them to regular industry, and they were a long time in developing the frontiersman. Now there was a sudden burst of interest in the country west of the great mountains. The Ohio company was organized in 1748, expressly to promote the settlement of the Ohio valley. The "Plan of

Union," adopted by the Albany congress of 1754, anticipated the speedy planting of new colonies in the west; and Dr. Franklin, than whom no man more thoroughly comprehended the western question of that day, in commenting on the "Plan," of which he was the author, argued that the limits of the colonies extending to the South Sea "must in time be reduced to dimensions more convenient for the common purposes of government." About the same time Franklin wrote his tract, *\* Plan for Settling Two Western Colonies in North America, with Reasons for the Plan;* one of the two colonies to be located on the Ohio and the other on Lake Erie. Governor Thomas Pownall, who has been called the only British official in the country who had a statesmanlike grasp of colonial questions, favored what he called "barrier colonies," after the fashion of the marks and marches of the middle ages. The coming on of the French and Indian war adjourned the plans of the Ohio company, of Franklin, and of Pownall, until the sword should decide to whom the west belonged; and even when the sword had rendered a verdict in favor of England, the royal proclamation of October 7, 1763, which reserved the lands west and northwest of the rivers flowing into the Atlantic ocean to the Indians, and commanded all the king's subjects not to encroach upon such lands, still further adjourned similar plans. But the paths that the wild deer had made over the mountains could not be blocked up. The hunter

followed the deer, and the settler followed the hunter. Adventurous Pennsylvanians and Virginians began to enter the valleys leading to the Ohio. James Robertson was at Watauga in 1769, and John Sevier came soon after. Boone entered the dark and bloody ground the same year; and when the embattled farmers fired the shot heard round the world, a party of hunters in the valley of the Elkhorn heard the echo, and baptized the station that they were building, Lexington. It has been said that the English race has a hunger for the horizon. "Have not all America extended their back settlements in opposition to laws and proclamations?" is a question that Judge David Campbell asked Governor Caswell when the people of the back counties of North Carolina were trying to set up the state of Franklin. But sporadic settlements under the jurisdiction of the old states did not fill the ambition of the times; and in less than three years from the signing of the proclamation of 1763 the discussion of interior colonies was boldly renewed. Again Franklin bore a prominent part in the discussion. In 1766, 1767 and 1768 he pressed upon the home government a grant for a colony in the Illinois that a company of which he was a member desired to plant. This petition was refused, but in 1769 Franklin presented another praying for a grant on the southern side of the Ohio, within the present limits of West Virginia. This time he was successful; the petition was granted in 1772, terms of government were agreed upon, and the



charter was made ready for the seals, when the breaking out of the war with England dashed the colony of "Vandalia" forever, and again adjourned western colonies to more peaceful times.

All through the Revolution the over-mountain settlements were slowly growing; the Maryland amendment of 1777, and the congressional resolutions of 1780, kept the thought of new and independent states before the country; and with the return of peace, the acknowledgment of independence, and the concession of the lakes and the Mississippi as our northwestern and western boundaries, together with the land cessions, the hour of preparation for planting the west with new states struck. There was no time to lose if the west was to remain in our hands; for the Briton and the Spaniard continued to retain considerable portions of our territory, and neither looked upon the boundaries of 1783 as finalities. In his well-known letter to Governor Harrison, Washington wrote in 1784: "The flanks and rear of the United States are possessed by other powers, and formidable ones too;" it is necessary "to apply interest to bind all parts of the Union together by indissoluble bonds;" "the western states stand, as it were, upon a point, the touch of a feather would turn them anyway."

On the first of March, 1784, the very day that Virginia completed her cession, Mr. Jefferson, as chairman of a committee, reported to congress a temporary plan of government for the western territory; and this plan, variously amended, became an ordinance of con-

gress April 23 following. This ordinance, with all its merits, was a nullity, and it was repealed by the ordinance of 1787. Between April 23, 1789, and July 9, 1787, as many as three ordinances for the government of the western territory were reported to congress: May 10, 1786, September 19, 1786, and April 26, 1787. These ordinances one and all were quite different documents from the one we celebrate to-day. On May 10, 1787, the last one had reached the third reading, when its further progress was suddenly arrested by a third series of events that we must now trace.

But first, the facts now related in regard to new states and governments are the second series, at the junction of which with the two others, we find the ordinance for the government of the Northwest territory.

November 2, 1783, Washington took leave of the rank and file of the Continental army, and two days later of the officers. He left both in a most distressful condition; the majority were poor, many broken in health; they were all unpaid, and congress could do no more than give them the "final certificates" that were almost worthless; eight years of suffering lay behind, and they knew not how many more of poverty before. In that dark hour, some of them looked beyond the western mountains for a theatre where they might repair their broken fortunes, as they had in darker hours often looked there as a place of retreat from the enemy in case of overwhelming disas-

ter; and Washington, in his final order, had cheered them with words: "The extensive and fertile regions of the west will yield a most happy competence to those who, fond of domestic enjoyment, are seeking for personal independence." Even before that order was issued, a plan for forming a new state westward of the Ohio was in contemplation; and on June 16, 1783, two hundred and eighty-eight officers of the Continental line of the army had petitioned congress to assign and mark out the tract of land bounded by Lake Erie on the north, Pennsylvania on the east, the Ohio on the south, a meridian twenty-four miles west of the mouth of the Scioto, and the Miami of the lakes on the west, as the seat of a distinct colony of the United States, "in time to be admitted one of the confederated states of America."\* The petitioners also asked that their bounty lands be set off to them in this district. This petition was really the foundation of the Ohio Company of Associates, organized at the "Bunch of Grapes" tavern in Boston, March 3, 1786. This organization meant, as the honored grandson of one of the most honored actors in those scenes, Hon. W. P. Cutler, of Marietta, Ohio, puts it, "The conversion of those old final certificates into future homes westward of the Ohio," and "the formation of a new state." The directors sent one of

\*Of the two hundred and eighty-two names, two hundred and thirty-two belonged to New England, thirty-six to New Jersey, thirteen to Maryland, and one to New York. The New England names belonged, one hundred and fifty-six to Massachusetts, thirty-four to New Hampshire, and forty-four to Connecticut.

their number, General S. H. Parsons, of Middletown, Connecticut, an agent to congress to negotiate the purchase of a tract of land; and it was his arrival in New York, May 10, that arrested the progress of the ordinance that had been reported the previous month. Parsons presented his memorial, which was referred to a committee, and returned to Connecticut. His place was shortly taken by Dr. Manasseh Cutler, of Ipswich, Massachusetts. Cutler reached New York July 5, the day before the pending ordinance was to be taken up. The few days following his waiting upon congress are big with the issues of futurity. They are the convergence of the three lines of events that we have been following—the land cessions, the growing interest in western colonization, and the objects of the Ohio company—where we find the immortal ordinance.

Dr. Cutler's ostensible object in New York was to purchase as much of the land bounded by the petition of 1783 as congress would exchange for \$1,000,000 of the evidences of the public debt. But he was really as much interested in the ordinance that congress was then considering, as in the memorial of General Parsons; for what would homes be worth to New England men without good government? He seems indeed to have had almost as much to do with the one as with the other. It is impossible and unnecessary to give in detail the history of those eventful July days, but a rapid summary of events is essential to our purpose.

Only eight states were then repre-

sented in congress—Massachusetts, New York, New Jersey, Delaware, Virginia, North Carolina, South Carolina, and Georgia. On the ninth of July the ordinance of April preceding was referred to a new committee—Carrington and Lee of Virginia, Dane of Massachusetts, Kean of South Carolina, and Smith of New York—three of them southern men. On the tenth Dr. Cutler, in response to an invitation of the committee, submitted his views touching an ordinance in writing; on the eleventh the committee reported; and on the thirteenth, after receiving some amendments, the report was adopted by the unanimous vote of the states present, and the unanimous vote of the eighteen delegates, with one exception, Yates of New York. Thus an act of legislation that had been before congress for more than three years, was consummated within a week from the time that Dr. Cutler, who had been twelve days on his way, drove his gig up to the "Plow and the Harrow," in the Bowery.

Admirable in matter and in literary style as the ordinance is, its provisions are not arranged with that careful method which Gouverneur Morris gave to the Constitution of the United States. I shall make no attempt at classification beyond remarking that the ordinance created a machinery of government for immediate use, defined the method and spirit of its administration, provided for the creation of the long-promised new states, and established certain principles of civil polity that should be of perpetual obliga-

tion. It will be well for us to-day to hear the most noteworthy of its provisions recited.

Section 1 constituted the territory one district for temporary government, but reserved to congress the power to divide it into two districts in the future.

Section 2 ordained that landed estates in the territory, of persons dying intestate, should be divided among the children of the intestate, or if none, among the next of kin, in equal shares. This provision Jefferson had introduced into the ordinance for western lands that he reported to congress in 1784, and that congress never acted upon, in the words: "The lands therein shall pass in descent and dower according to the customs known in the common law by the name of gavelkind." It adds interest to the fact to recall that Jefferson, not long before, had eradicated entails and primogeniture from the laws of Virginia.

Sections 3 to 12 inclusive created a temporary government, and directed how it should be administered. Congress should appoint a governor for a term of three years, a secretary for a term of four years, and three judges for good behavior. Until the election of a general assembly, the governor and judges should adopt and publish in the district such of the laws, civil and criminal, of the original states, as they deemed necessary and best suited to the circumstances of the people, subject to the approval of congress. The governor should be commander-in-chief of the militia, should appoint and commission militia officers below

the rank of general officers, and appoint such magistrates and other civil officers in counties and townships as he deemed necessary to the maintenance of peace and good order. The secretary's duties are sufficiently indicated by his title. Any two of the judges should form a court having a common law jurisdiction. A general assembly was authorized as soon as there should be 5,000 free male inhabitants, of full age, in the district. The legislature should consist, when formed, of a governor, a legislative council, and a house of representatives; the representatives to be chosen by the people, but the five members of the council to be chosen by congress from a list of ten nominated by the house of representatives. The legislature should elect a territorial delegate to congress. All the officers must reside in the territory. The governor must own a freehold of 1,000 acres of land in the district; the secretary, the judges, and the members of the council must have similar freeholds of 500 acres each; representatives must hold, in their own right, 200 acres of land in the district, and no man was a qualified elector of a representative, the only elective officer, unless he filled the following requirement: "That a freehold in 50 acres of land in the district, having been a citizen of one of the states, and being resident in the district, or the like freehold and two years residence in the district, shall be necessary to qualify a man as an elector of a representative."

What havoc these rules would make with our legislatures and electorates to-

day! They were intended to confine the government of the territory to those men who had, as the English say, "a stake in the country." Moreover, they were in accord with the temper of the times, and they stand to-day on the statute-book of 1787, a landmark from which we may measure how far the American people have drifted on the tides of democracy in one hundred years.

Then follow the articles of compact between the original states and the people and states in the territory, forever unalterable, unless by common consent—the six bright jewels in the crown that the Northwest territory was ever to wear.

Article I declares that, "No person demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments, in the said territory."

Article II guarantees to the inhabitants the writ of *habeas corpus*, the trial by jury, proportional representation in the legislature, and the privileges of the common law. The article concludes with the declaration, "That no law ought ever to be made or have force in the said territory, that shall, in any manner whatever, interfere with or effect private contracts, or engagements *bona fide*, and without fraud previously formed." A few weeks after, this provision was copied into the Constitution of the United States, but this is its first appearance in a charter of government. It was an outgrowth of the troublous commercial



condition of the country. Lee, who originally brought it forward, intended it as a stroke at paper money.

Article III contains those words that should be emblazoned on the escutcheon of every American state: "Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged." It also says good faith shall be observed toward the Indians.

Article IV ordained "That the said territory, and the states which may be formed therein, shall forever remain a part of the Confederacy of the United States of America, subject to the Articles of Confederation, and to such alterations therein" as might be made, and to the laws enacted by congress. It concludes, after some provisions in regard to taxation: "The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the said territory as to the citizens of the United States, and those of any other states that may be admitted into the Confederacy, without any tax, imports, or duty therefor."

Article V provided for the formation in the territory of states, not less than three nor more than five, and drew their boundary lines subject to changes that congress might afterwards make. A population of sixty thousand free inhabitants should entitle every one of these states to admission—not "into the Union," a phrase that came in with the

Constitution, but—"by its delegates into the congress of the United States, on an equal footing with the original states in all respects whatever," and to "form a permanent constitution of state government," with the proviso that "the constitution and government, so to be formed, shall be republican, and in conformity to the principles contained in these articles."

Article VI dedicated the northwest to freedom forever. "There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes whereof the party shall have been duly convicted."

In 1876 Mr. W. F. Poole said that "in the whole range of topics in our National history there is none which has been more obscure, or the subject of more conflicting and erroneous statement, than the ordinance of 1787." Much labor and acuteness have been devoted to the discovery of the authorship of the ordinance and of its different parts. I shall neither emulate these labors nor particularize their results, but shall content myself with two or three observations.

We have seen that four different ordinances had been previously reported to congress, and that one had already been enacted. The fifth and great ordinance, as Mr. Bancroft says, embodied the best parts of all its predecessors. But it embodied more; and all the evidence points to the conclusion that much of the new material was contained in the paper that Dr. Cutler handed to

the committee July 10, after he had studied the ordinance then pending. Whoever may have brought them forward, the imperishable principles of polity woven into the ordinance of 1787 were the ripe fruit of many centuries of Anglo-Saxon civilization; but the best places to search for them are the bills of rights of the Revolutionary era.

The immortal prohibition of slavery is the subject of many a heated controversy. In the "great debate" of 1830 Mr. Webster claimed it for Nathan Dane, of Massachusetts, and Mr. Hayne and Mr. Benton claimed it for Thomas Jefferson. Mr. Dane claimed it for himself. President King of Columbia college claimed it for his father, Rufus King. William Grayson and Richard Henry Lee have also been nominated for the honor. The facts are these: Mr. Jefferson's draft of the ordinance of 1784 contained a prohibition of slavery in all the western territory, south as well as north of the Ohio, to take effect at the beginning of the year 1801, but it was struck out in congress. In March, 1785, Mr. King moved to commit a proposition to prohibit slavery in the northwest immediately; the motion prevailed, but congress never acted upon the subject. The first draft of the ordinance of 1787 did not contain the prohibition, but Mr. Dane, who was a member of the committee of July 9, and who wrote that draft, brought it forward on the second reading, apparently on a suggestion from Virginia, and it was made the fifth article of compact. Nothing can be finer than Mr. Bancroft's distribution of the

honors among those who helped to bring this grand result about.

Thomas Jefferson first summoned congress to prohibit slavery in all the territory of the United States; Rufus King lifted up the measure when it lay almost lifeless on the ground, and suggested the immediate instead of the prospective prohibition; a congress composed of five southern states to one from New England and two from the middle states, headed by William Grayson, supported by Richard Henry Lee, and using Nathan Dane as scribe, carried the measure to the goal in the amended form in which King had caused it to be referred to a committee; and as Jefferson had proposed, placed it under the sanction of an irrevocable compact.

The value of Rufus King's suggestion appears when we observe the efforts afterwards made in Ohio, Indiana, and Illinois to break the prohibition down, and reflect upon the enormous power that slavery would have had in the northwest if once it gained a foothold. Any man who believes that it was Article VI of the compacts of 1787 that decided the great issue brought to a close at Appomattox in 1865, must read the history of those July days with bated breath. Once that prohibition had been voted down, and once it had been set aside; it had been rejected by southern men when Mr. Jefferson first brought it forward; and now five of the eight states present are southern states. We have traced the main events that led up to July 13, 1787; but should also observe that at last the ordinance could not have been secured, as it is, had it not been for the happy constitution of congress at that time as respects its *personnel*, for the address of Dr. Cutler in conducting his mission, and for the blessed influences of peace and wisdom that brooded over

America in the year 1787. How admirable the words of Bancroft:

Before the Federal convention had referred its resolutions to a committee of detail, an interlude in congress was shaping the character and destiny of the United States of America. Sublime and humane and eventful in the history of mankind as was the result, it will take not many words to tell how it was brought about. For a time wisdom and peace and justice dwelt among men, and the great ordinance, which could alone give continuance to the Union, came in serenity and stillness. Every man that had a share in it seemed to be led by an invisible hand to do just what was wanted of him; all that was wrongfully undertaken fell to the ground to wither by the wayside; whatever was needed for the happy completion of the mighty work arrived opportunely, and just at the right moment moved into its place.

But Dr. Cutler came to New York to buy land? Strange to say, the land purchase was attended by more trouble than the ordinance of government; but July 27 congress authorized the sale of 5,000,000 acres lying north of the Ohio, west of the seven ranges, and east of the Scioto river, 1,500,000 for the Ohio company, and "the remainder," to quote Dr. Cutler's diary, "for a private speculation in which many of the principal characters of America are concerned." The total price agreed upon was three and a half millions of dollars, but as the payments were made in public securities worth only 12 cents on a dollar, the real price was only 8 or 9 cents per acre.

"The Ordinance of 1787 and the Ohio purchase," says Mr. Poole, "were parts of one and the same transaction. The purchase *would* not have been made without the ordinance, and the ordinance *could* not have been enacted except as an essential condition of the purchase." This fact alone would make

the purchase memorable, but it is memorable for other reasons. The agent who negotiated it says it was "the greatest private contract ever made in America," up to that time. Besides, the "powers to the board of treasury" authorizing the contract contained some features that deserve to rank with the provisions of the ordinance itself. The ordinance for ascertaining the mode of disposing of lands in the western territory, adopted May 20, 1785, which directed the survey of the said lands into townships six miles square, reserved lot No. 16 in every township, or one thirty-sixth part of the whole, for the maintenance of public schools within the township; and the "powers" re-affirmed the reservation. Other kindred provisions were these:

The lot No. 29 in each township or fractional part of a township, to be given perpetually for the purposes of religion. Not more than two complete townships to be given perpetually for the purposes of an university, to be laid off by the purchaser or purchasers, as near the centre as may be, so that the same shall be of good land, to be applied to the intended object by the legislature of the state.

These townships of land are the endowment of the Ohio University at Athens. Once more, it was in consequence of the ordinance and the purchase that Marietta, the first colony in the northwest territory, was planted at the mouth of the Muskingum, the centennial of which we shall celebrate April 7, 1888.

The results of the ordinance first to be noticed are the great commonwealths carved out of the territory, in conformity with the pledges of 1780.

The resolution of October 10, 1780, said such territory as states might cede should be divided into states of not less than one hundred or more than one hundred and fifty miles square, which would have made ten northwestern states in all. The ordinance of 1784 contemplated that number, and Mr. Jefferson proposed to give them the following names: Sylvania, Michigania, Chersonesus, Assenissippia, Metropotamia, Illinois, Saratoga, Washington, Polypotamia, and Pelesipia. The ordinance of 1787 provided for not less than three nor more than five states. If three, all the dividing lines should run north and south; one, the Wabash river from the Ohio to Vincennes, and a meridian line from that point to the international boundary; the other, a meridian line drawn through the mouth of the great Miami. If five, a latitudinal line should be drawn through the southern extreme of Lake Michigan. This plan was fully carried out, except that the parallel of latitude was ultimately drawn through the most northerly cape of Maumee bay, and that a different boundary between Michigan and Wisconsin was adopted in the upper peninsula.

The five states were admitted into the Union as follows: Ohio, 1803; Indiana, 1816; Illinois, 1818; Michigan, 1837; Wisconsin, 1848. But over and above these states, a generous tract of territory was left for Minnesota, admitted in 1858, and a small corner on Lake Erie for Pennsylvania.

These states contain, together with the parts of Minnesota and Pennsylvania that belong to the territory, 265,878

square miles, or 170,161,867 acres.

No return of population appears to have been made in 1790, but it is safe to say that it did not exceed five thousand, counting the new-comers at Marietta, and the French on the Detroit, the Wabash, and in the Illinois. The following table will show the enormous growth of population since that time. It does not contain the parts of Minnesota and Pennsylvania that belong to the territory:

1800.....	51,006
1810.....	272,324
1820.....	972,400
1830.....	1,470,018
1840.....	2,924,728
1850.....	4,523,260
1860.....	6,926,884
1870.....	9,121,917
1880.....	11,206,667

In 1890 the population of the five states will be thirteen million, if it be not that to-day. Ohio has thus far kept the lead, but she will probably be passed by Illinois at the next census. Indiana was second until Illinois passed her in 1860; Michigan and Wisconsin from the first have stood fourth and fifth in the scale.

The estimated value of all real and personal property in the five states in 1880 was \$10,181,000,000. This is more than one-half of the total wealth of the country, as estimated by Secretary Chase at the beginning of the civil war.

I shall also present some statistics showing how religion, morality, and knowledge, that were so dear to the framers of the ordinance, have fared.

The following are the ministers and members of Protestant churches, as



shown by 'Scribner's Statistical Atlas :'

	Ministers.	Members.
Ohio.....	4,973	670,710
Indiana.....	3,190	458,300
Illinois.....	5,043	552,400
Michigan.....	2,253	217,700
Wisconsin.....	1,427	172,400
Total.....	16,891	2,071,510

Of the Ohio population 20.18 per cent. of the whole were members of Protestant churches; of the Indiana population, 23.13 per cent; Illinois, 17.88; Michigan, 13.26; Wisconsin, 13.04.

Statistics of Catholic church membership I have not at hand.

I gather from the report of the Commissioner of Education for 1884-85 a few items relating to superior instruction in the five states.

Colleges and universities reporting.....	90
Instructors in them.....	889
Students.....	8,594
Value of buildings, grounds, and apparatus.....	\$ 9,588,000
Productive funds.....	8,091,000
Value of college property reported.....	\$17,679,000

'Scribner's Atlas' finds in the five states 645 schools of all kinds other than public schools, with 82,178 pupils.

The last report of the National commissioner reports the number of

School youth enumerated.....	4,036,285
School youth enrolled in schools.....	2,748,261
Number school-houses.....	47,611
Number of teachers.....	84,783
Expenditures for public schools.....	\$32,982,000
Value of public school property.....	81,328,000
School fund, not including Ohio.....	27,274,000

The census takers of 1880 found in the five states 3,062 newspapers and periodicals, with an aggregate circulation per issue of 7,233,000 copies.

But that the teachers of these states still have plenty of work to do is shown by the number of persons in 1880, 10 years old or more, unable to write.

Ohio.....	131,847
Indiana.....	110,761
Illinois.....	145,397
Michigan.....	63,723
Wisconsin.....	55,558
Total.....	507,286

Some pious son of the northwest ought to prepare for the great commemoration of next year a full statistical view of these five states. But the foregoing exhibit, imperfect as it is, gives us some idea of its growth. Some men thought a century ago that they had great ideas of the west, but how marvelously have the wildest expectations of that day been exceeded.

Nothing interests one more in reading the debates of the Federal convention and of the first congresses, than the prophecies that he meets, both conscious and unconscious, of the future of this country, particularly of the west. As we read, we wonder that men so able and so well informed could have been so short-sighted. But we must remember that the possibilities of the United States, and especially that part of it which lay west of the mountains, under a free and stable government, defied the forecast of the wisest statesmen. So able a man as Fisher Ames, in debating the question of a permanent seat of government in 1790, uttered the opinion that it would probably be nearly a century before the population of the west would be considerable. The "centre of population,"

of which much was said in the same debate, was then twenty-five miles east of Baltimore; and there Mr. Goodhue said it would remain fixed for ages, and that when it did move the movement would be to the eastward. Little did the men of the first congress dream that the centre of population would move steadily westward along the thirty-ninth parallel, at the nearly uniform rate of five miles a year; and that, a century from the time they were speaking, it would be much nearer the Mississippi river than the Alleghany mountains. While we wonder at what seem to us the feeble prophecies of the fathers, we may well reflect whether our own forecasts of the next century are wiser.

The direct results of the Ordinance of 1787 were the five great commonwealths that we have now so rapidly sketched; the indirect, and in some respects larger, results were the reaction of these commonwealths on the thirteen states, and their influence on the younger members of the Union. Here we deal with political, moral, and religious forces that cannot be expressed in quantitative terms. But this group of topics cannot be here considered, inviting as they are.

The record of the vote on the ordinance shows eighteen delegates present in congress. As we look over the list, we are surprised to see how few of them have any place in history. I am sure that the names of not more than a half-dozen would be recognized by a majority of this cultivated audience,

were I to read the list.\* We must remember, however, that the Continental congress was not now what once it had been; also that the Federal convention was sitting at Philadelphia, and that Franklin, Sherman, King, Hamilton, the Morrises, Madison, Rutledge, the Pinckneys, Randolph, Wilson and Washington were in attendance there. Two men, Blount of North Carolina and Few of Georgia, were members of both bodies. One can hardly help thinking that the ease and celerity with which the ordinance was enacted, was partly due to the fact that the Federal convention was in session. Men's eyes were fixed upon the statesmen who were discussing in secret the National Constitution; and Grayson and Lee and Carrington and Dane, assisted by Manasseh Cutler, were left with fourteen men, all but one of whom were willing to follow them, to enact in serenity and stillness an ordinance of government that might not have been secured if New York and not Philadelphia had been the focus of public attention.

The year 1787 is thus doubly memorable; it gave us the ordinance for the territory northwest of the river Ohio, and the Constitution of the United States.

"Peace hath her victories  
No less renowned than war;"

and who can tell but history will yet adjudge that year the greatest in our annals?

\*Massachusetts, Holten and Dane; New York, Smith, Haring, Yates; New Jersey, Clark and Scheurman; Delaware, Kearny and Mitchell; Virginia, Grayson, Lee and Carrington; North Carolina Blount and Hawkins; South Carolina, Kean and Huger; Georgia, Few and Pierce.

AUTHORITIES.—The principal sources of information used in preparing this address are the following: Bancroft's 'History of the United States'; 'The Journals of the American Congress from 1774 to 1788'; 'The Public Domain,' edited by Thomas Donaldson, published by the Government; 'Report of the National Commissioner of Education,' 1884, 1885; 'Dr. Cutler and the Ordinance of 1787,'

W. F. Poole in North American Review, No. 251; 'Documents Illustrative of American History,' edited by Preston, and published by Putnam; 'The Ordinance of July 13, 1787'; Hon. W. P. Cutler, Marietta, Ohio; 'Scribner's Statistical Atlas,' Chase's 'Statutes of Ohio,' 'Preliminary Sketch.'

B. A. HINSDALE.

## THE BENCH AND BAR OF MILWAUKEE.

### IV.

THE first effort gallantry made by the territory of Wisconsin to become a state, by the adoption of the constitution proposed by the convention of 1846, ended in failure, principally because the people and the makers of that instrument did not agree as to the restrictions that should be thrown around the business of banking. The second effort toward a footing among the states of the Union was more successful, and on May 29, 1848, Wisconsin took the position to which she had proved her right by advance and enterprise, and which she has since justified by unparalleled development and a patriotism that has never faltered in the days of the darkest need.

The new order of things had of necessity a bearing upon the courts of this portion of the northwest. The history of the territorial tribunals and of the United States court that had jurisdiction over what was to become a state under the new order of things, has been already recorded in these pages,\* and

this relation finds its beginning with that of the new state. Attention will first be given the United States court, as that of the highest jurisdiction, while its connection with the subject matter of this sketch is found in the fact that Milwaukee was one of the chief points for the sitting of that court, that its first judge resided therein, and that some of the most important cases over which it had control found their origin there.

In section four of the act of congress by which the people of Wisconsin territory were permitted to form a constitution and create a state (approved August 6, 1846), it was provided that "said state shall constitute one district of Wisconsin, and a district court shall be held therein, to consist of one judge, who shall reside in said district, and be called a district judge. He shall hold at the seat of government of said state, two sessions of said court annually, on the first Monday in January and July, and he shall, in all things, have and exercise the same jurisdiction and powers which were by law given to the judge of the Kentucky district, under an act entitled 'An act to estab-

\* "The Bench and Bar of Milwaukee," Nos. I and II, in issues of March and April, 1887, by C. W. Butterfield.

lish the judicial courts of the United States.' " This limitation as to the time and place of holding court was modified by the act of congress which admitted Wisconsin into the Union (approved May 29, 1848), which declared that "the judge of the district court for the district of Wisconsin shall hold a term of said court in each year, at the seat of government, to commence on the first Monday in July, and another term of said court in each year at Milwaukee, to commence on the first Monday of January." Power was also given him to hold special terms either at Madison or Milwaukee, whenever he should deem that the nature and amount of business should require, the records and papers to be kept at either place, as he might direct. The compensation attached to this important position was the sum of fifteen hundred dollars per annum.

The connection of Hon. Andrew G. Miller with the territorial courts has been already recorded, while a life of that eminent jurist has appeared in these pages,\* and the reader may see that no novice in the work and no stranger to the section was set to the administration of the laws of the general government under the new order of things, when Judge Miller was placed at the head of the district court, on June 12, 1848. The service he gave through the long period that elapsed before he retired from the bench to enjoy for so short a season the rest he had earned, has its recognition in the

immense mass of business transacted in his court between 1848 and 1874.

The legislation of congress touching this court has been limited, and can soon be related. In March, 1857, the meagre salary attached to the judgeship was increased to twenty-five hundred dollars per year, to which one thousand dollars more was afterwards added. By the act of July 15, 1862, it was declared that "the districts of Michigan, Wisconsin and Illinois shall constitute the Eighth circuit;" while it was provided that circuit courts should be held therein at the same times and places as were then prescribed by law for holding the district courts of said district. A circuit court of the United States was thereby created to be held in Wisconsin; and it was provided that the same allotment of justices of the supreme court to hold such circuit courts should continue as had heretofore been made. The powers and jurisdiction of a circuit court, which had previously been vested in the district court of Wisconsin, was by the same act repealed; and it was provided that each court should have and exercise such powers only as were given to similar courts throughout the other circuits, repealing all provisions of laws inconsistent therewith. The full powers and responsibilities of both circuit and district courts, which had been held for fourteen years by Judge Miller, were now restricted to that of the last named court alone. By the act of February 9, 1863, Wisconsin was made a part of the ninth judicial circuit; but by subsequent legislation was attached to the seventh. A

\*"Andrew G. Miller" in *MAGAZINE OF WESTERN HISTORY*, May, 1887.



subsequent change in the district court has been thus described :

The times for holding the circuit and district courts for Wisconsin were, by section five of the act of June 27, 1864, changed as follows: To be held at the city of Milwaukee on the second Monday of April and the second Monday of September; and at the city of Madison on the first Monday of January in each year, respectively.

The business of the United States courts becoming too large to be easily attended to by a single district judge, by an act of congress entitled "An Act to Establish the Western Judicial District of Wisconsin," approved June 30, 1870, the state was divided into two districts. . . . The terms were appointed to be held for the western district, at Madison, on the first Monday in June, and at La Crosse the first Monday in December. In the eastern they were to be held at Oshkosh on the first Monday of July, and at Milwaukee on the first Monday in January and October of each year. . . . Under these provisions, James C. Hopkins of Madison, was appointed judge of said western district, on the ninth day of July, A. D. 1870, the Hon. A. G. Miller remaining judge of the eastern district.\*

When Judge Miller bade farewell to the bench, on January 1, 1874, he was succeeded by James H. Howe of Kenosha, a nephew of Hon. Timothy O. Howe, who was then representing Wisconsin in the United States senate. The new judge was a native of Maine, and had been admitted to the bar of Wisconsin at Green Bay in 1848. From January 2, 1860, to October 7, 1862, he filled the office of attorney-general of the state, and entering the army of the Union did loyal service as colonel of the Thirty-second regiment of Wisconsin volunteer infantry. As he had extensive interests in connection with the Chicago & Northwestern railway company, he decided to retire from the bench before occupying it for many

months, and carried his determination by resigning; and was succeeded on February 10, 1875, by Charles E. Dyer, of Racine, the present incumbent.

Judge Dyer is of New York birth, having first seen the light of day in Cicero, Onondaga county, on October 5, 1834. A portion of his early days was served as a printer in Chicago, but disliking the business he went to Sandusky, Ohio, where he pursued a diligent course of law, and was admitted to practice in 1857. After a short period of practice in Ohio he removed to Racine, Wisconsin, which has since been his home. He filled the office of city attorney of Racine, and represented his county in the legislature for a time; but the practice of the law was the labor to which he had devoted his life, and his elevation to so high a bench was regarded by all as the fitting crown of his career, and a proper recognition of his qualities and abilities. As has been said concerning him :

As an advocate, during his career at the bar of Wisconsin, he was recognized as both able and accomplished, and at the time of his promotion to the bench, his professional prospects were of the most flattering character. Yielding to the earnest solicitation of his brethren of the bar, he went upon the bench with a degree of hesitation as to his fitness for the place, which disclosed that conscientiousness in the discharge of duty which is one of his leading characteristics. . . . No man ever held a judicial office in Wisconsin in whose integrity the bar and the people have had greater confidence, and it is safe to say that no man of Judge Dyer's age ever earned a better reputation in so short a time, for judicial fairness and ability.

The cases that have run their course in this court under its three judges have become a part of the judicial history of the northwest, and as the few that

\* History of Dane County, Wisconsin, p. 491.

have borne features or fruit of a sensational character have already been recorded in these pages, no special mention need be made of that portion of its labors. The men who have appeared before it at various seasons have numbered among them some of the most eminent of their profession in America. It is no flattery to say, whether in connection with this court or those of the state, that the men who constituted the bar of Milwaukee when the territory was transformed into the state, and the anticipation of fixed forms for the commonwealth gave way to the reality, with those who came into the west soon after that event, formed a society of lawyers not often equalled for energy, ability, willingness to work, and a good-natured acceptance of whatever good fortune or ill the new fields of labor might hold in store for them. One of their number who arrived in 1847 declares that at no period since 1850 has the bar shown more solid ability to "the square foot" than it did about the date last named; and what struck him as wonderful upon his arrival was the extreme youth of many holding judicial positions or in the forefront of legal affairs. In his home at the east he had been wont to see the old men chosen, while the young were taught to wait, but in the free life of the new state each sought promotion or business as he could, and the test was ability and courage, rather than experience and gray hairs.

The men of 1840-50 have certainly left their impress upon public affairs, while many of them are yet engaged in

the labors of professional life or serenely watching the struggles and achievements of those who have taken their places at the wheel. A retrospective glance into that decade can be taken with interest if not with profit before proceeding with this narration.

Among the older members of that early bar was Hans Crocker, who had come up from Chicago in 1836, and cast his fortunes in with those of the little village on the Milwaukee and lake. He was associated for a time with H. N. Wells and Asabel Finch, and a strong combination was formed when the three set their hands and wills to any given task. In 1839 Mr. Crocker withdrew from the firm, and was soon after associated with John H. Tweedy, but that partnership was dissolved in 1844. Mr. Tweedy was then, as now, one of the leading men of the city, and it was understood, even at that early date, that whatever task felt his strong, earnest and steady will was sure to be carried on to success, if the chance of success lay anywhere within it. He had come to Milwaukee in 1836, and was soon put to the forefront of public affairs by an election to the territorial council, in which body, as in the constitutional convention and congress, and in other positions of public trust, he has served the people with a faithfulness that never tired, and an integrity that no man has ever thought to question. Jonathan E. Arnold, of whom extended mention has been previously made, was one of the striking figures of the day, and was even then recognized as a lawyer and orator for whom the

future might hold many rewards. H. N. Wells, the first county judge, was also of the first comers, and his ready wit and bright sayings were not the least prized among the social possessions of the bar. The Paines were added to the list in 1847; and Edward G. Ryan in 1848, coming with this favorable comment for his new home: "When I first went to Racine it seemed doubtful which would be the larger place. That doubt was settled long before I moved." He had rode in from Racine on horseback, on one of the coldest days of the year.

Among the legal cards in the *Sentinel and Gazette* for January, 1848, I find these: Crocker & Holliday, Emmons & Van Dyke, J. E. Arnold, Thomas L. Ogden, Francis Randall, Charles E. Jenkins, James H. and Hortensius Paine, J. M. Gillett, Alex. Mathieson, Charles Crane, Alex. T. Gray, and Albert Smith.

Levi Hubbell was not long in making himself one of the well-known men of the state, not altogether because of the prominence given him in later years, but from that quality about him which made him in his very nature a public man. The private secretary of Governor Marcy of New York, while yet a young man, he had served in the legislature of that state and been its adjutant-general, before coming to Milwaukee in 1841. In 1848 he was sent a delegate to the National Democratic convention at Baltimore, and gave his support to General Cass. In July of the same year he was elected judge of the second circuit court. In that con-

test the Whigs had nominated Francis Randall, while the Democrats had put forward A. D. Smith. The latter at some period in his life had made a speech in denunciation of the Catholics, and taking advantage of the animosity that therefore existed in certain portions of the Democratic party against the regular nominee, Mr. Hubbell announced himself as an independent candidate, and was elected. Upon the expiration of his term in 1851 he was reelected, after a contest of exceeding energy and some bitterness, over his former partner, Mr. Finch. It was two years later that occurred the famous impeachment trial, with acquittal, that forms one of the most interesting incidents in the legal history of Wisconsin.\* He remained upon the bench until 1856, when he resigned with the explanation that fifteen hundred dollars per annum was hardly a sufficient salary for the labor and responsibility involved, and resumed the practice of the law at Milwaukee.

Clinton Walworth was one of the marked figures of those early days. A nephew of the famous Chancellor Walworth of New York, he came to Milwaukee in that year of remarkable accessions, 1836, and with the exception of one twelvemonth of absence, made Milwaukee his home until his death in 1862. Loved by all for his kindly disposition and genial ways, he was re-

\* It is claimed by some that in this contest Judge Hubbell placed himself under obligations to certain parties, and that it was his endeavor to fulfill these obligations that led him into the difficulties leading to his impeachment.

garded as a good lawyer, and an eloquent speaker. The first police justice of Milwaukee, which office he held for a number of years, he was also one of the prime-movers in the establishment of the municipal and criminal court. Byron Paine, in 1850, had just become a member of the bar, and it was not for several years thereafter that he won standing and reputation by his masterly defense of Sherman M. Booth in the slave rescue case. Abram D. Smith was also among the practicing lawyers of Milwaukee, until the establishment of the supreme court under the constitution, when he was elected an associate justice thereof. Charles A. Hamilton became connected with this bar in 1851, forming a partnership with J. E. Arnold, under the firm name of Arnold & Hamilton. In 1858 he became one of the firm of Emmons, Van Dyke & Hamilton, which for many years had charge of a large part of the admiralty suits arising on the lakes and the Mississippi river, that came under the jurisdiction of Judge Miller's court. The firm gained a wide celebrity by a thorough knowledge of this branch of the law, and its great success in the cases entrusted to its charge. The year 1849 saw the advent at Manitowoc of a young man, who as governor of the state in a troubled time proved his patriotism and executive ability—Edward Salomon. Three years later he removed to Milwaukee, and entered the office of Judge Ryan as a student. He was admitted to practice in 1855, and rapidly made his way into the favor of the people. Of fine appearance and cultivated manners, tall, well-formed

and graceful, speaking an almost perfect English, with a slight German accent, he was the man to command favor with the masses, and to be advanced to any position of public favor he might desire. Upon entering the profession he formed a connection with Hon. Winfield Smith, which continued through many years.

Among the busy men of that early day was Charles K. Wells, who came to the west in 1847, and still gives a keen intellect and a trained memory and legal knowledge to the transaction of such business as he is willing to undertake; Jason Downer, the student as well as the lawyer, who served for a season acceptably on the state supreme bench; W. P. Lynde, whose deep law learning was a compliment to the business ability and executive force of Asabel Finch, his partner for many years; James S. Brown, the first attorney-general of the state; Winfield Smith, who is yet one of the strong and honored members of the Milwaukee bar; Don A. J. Upham, who sat for several seasons in the mayor's chair; A. R. R. Butler, who in his youth was compelled to shoulder the responsible duties of prosecuting attorney, and in that office to meet in close conflict with the giants of the bar; Joshua Stark, who came to the state in 1850, and after a brief but fruitful experience in a suburban location, moved up to Milwaukee where he has since commanded honors and success; O. H. Waldo, a close student who is said to have ended a useful career by too close attention to business and his books—spending the day with his clients, and a half the night or more



in his library; James B. Cross, who had come to Milwaukee in 1841, served one term as mayor, and became a formidable candidate for the governorship in 1857; James Holliday, the eloquent young lawyer, who was stricken with death while arguing a case before the circuit court in 1851; J. V. V. Platto, who had just entered upon the career which has been so well crowned with success: John J. Orton, and other brilliant and hard-working men, of whom detailed mention becomes impossible because of space. Others who have made their mark in the legal history of the city, like Matthew H. Carpenter, had not yet become a part of this bar in 1850, while some had not yet made a beginning in the profession they have since adorned. Hon. E. D. Holton, in his speech on the opening of the chamber of commerce in 1858, described his personal view of things legal as presented on his arrival in the city in 1840, as follows:

At that time the following gentlemen were practicing law—Mr. Tweedy had his office I think, on the west side of the river, in what was called the Rogers block; Messrs. Upham & Walworth had their office in the wooden building with pillars in front, still standing on the south side of Wisconsin street above Main; Wells, Crocker & Finch in one side of the building now occupied by Davis & Moore; Graham & Blossom over Caleb Wall's store; Charles James Lynde over Jones' jewelry store, where Van Cott's store now is; J. E. Arnold opposite the Milwaukee House, and Francis Randall over Cary & Taylor's store.

The memories of those yet living teem with interesting incidents and tales in relation to those who are gone, some of which we hope to recount before the close of these brief and inade-

quate sketches. The account heretofore given of the life and labors of the late Chief-Justice Ryan\* has called forth suggestions and facts of additional value and interest, that should find relation before passing on to the consideration of others of his day. From an appreciative article published by an acquaintance soon after his death, we learn that he was "severely exact in the fulfillment of minor things." Once, when a young man, an eminent lawyer of New York, gave him a letter with an injunction to deliver it only into the hand of the person to whom it was addressed. Going to the house of that gentleman, the boy found that he was absent at a club dinner, and not likely to soon return. No entreaty or argument of the wife could win the document from his possession, and he remained in waiting until three o'clock in the morning, and delivered it into the proper hands. The same authority remarks "Perhaps his most marked characteristic was strict adherence to all the rules of politeness," and continues:

I always considered him incapable of deliberate discourtesy, and am certain he never forgave a breach of politeness. He had a horror of what is termed bluntness, and said often, "The most insulting boor always prefaces his impertinence with such expressions as 'to be candid with you,' or, 'if I must speak the truth to you.'" I have seen him exceedingly anxious to learn where a client was educated, and, though the person had several long interviews with him, he never found out. He would not ask a question he deemed impertinent. I was once requested to write a communication upon a public question. I consented on condition that Mr. Ryan correct it. The article was written and

\*"Edward George Ryan," *MAGAZINE OF WESTERN HISTORY*, April 1887, page 830.

placed in his hands. "He walked to my place next day, fully a mile, in the hot sun, and drawing the manuscript from his pocket said, 'I have carefully read this article and approve of it, excepting one correction, which you only can properly make.' Thinking he had found a grave error in the article, I asked him what was the correction suggested, when he pointed out the omission of the word "and" in a sentence, which no doubt any compositor would supply, but which his keen sense of courtesy would not allow him to add. I interlined the exasperating conjunction, when he carefully took the manuscript and returned.

Another characteristic anecdote has been thus related: The quaint wisdom of the bench has never been more wittily uttered than by the late Chief-Justice Ryan of Wisconsin in deciding that a lawyer appointed to try a case in place of a prejudiced judge had no authority, for the reason that the constitution of the state vested all judicial power in certain courts, and these could not delegate their authority. He cited a case from Hobart in point, which says:

All kingdoms in this constitution are with the power of justice, both according to the rule of law and equity; both of which being in the king as sovereign were after settled in several courts, as the light being first made by God was after settled in the great bodies of the sun and moon.

After questioning the accuracy of Hobart's "constitutional law, both celestial and terrestrial," Judge Ryan said:

Taking the sun and moon according to the common acceptance and following Hobart's metaphor, the circuit judge might be likened to the sun of his court, in this cause, and Mr. Cole (the lawyer who tried the case) to the moon, after the fashion of a judicial depute in Scot's law, shining with delegated jurisdiction. But the constitution mars the comparison. For by the astronomical constitution the sun appears to take power to delegate his functions of lighting the world, while the state constitution tolerates no such delegation and appoints a sun only, without any moon, as luminary of the circuit

court, whose "gladsome light of jurisprudence" must be sunshine, not moonshine.

That two such determined and vehement men as Judge Ryan and Senator Carpenter could long live together in the close and mutually dependent relations of a law partnership, without friction, is what might be safely called a natural impossibility; and yet their connection produced fewer thunder storms than their associates of the bar expected. One incident involved in these close business relations is told with great gusto by the lawyers of Milwaukee, but has never, so far as I can learn, seen the light of print. There was employed in their office a gentleman of good natural and mental qualities, but to whom Judge Ryan, by one of those unaccountable freaks of his temper, had taken so intense a dislike that he could not bear to see him enter his room. The clerk was more especially under the direction of Mr. Carpenter, and on one occasion, while the last named was absent in court at Beloit, he entered Judge Ryan's room, and asked him if he had any instructions to give concerning the office work.

"Yes sir, I have," was the answer, as Judge Ryan turned to his desk and hastily wrote a few lines. Sealing the note and addressing it, he handed it to the clerk and said, "Take that to your master as soon as you can."

The clerk seized his hat and coat, and, rushing to the depot, made his train just as it was pulling away from the platform. Reaching Beloit in due season he rushed into the court room where Senator Carpenter was engaged

in a case, and handed him the note with the explanation that it was a matter of immediate importance. Breaking the seal Mr. Carpenter read :

MILWAUKEE, — 18, —

MATT. H. CARPENTER:

*Dear Sir:* I want you to keep your lackey out of my office.

Yours respectfully,

E. G. RYAN.

While engaged in the preparation of legal briefs or opinions, Judge Ryan would walk about the room, slowly dictating each sentence, and seldom changing a word or phrase when once uttered. He was as careful in the dictation of his punctuation as his language; and so much importance did he attach to the construction of sentences, that he often said he was never satisfied of the correctness of his opinion on any legal questions, "until he had reduced it to the test of accurate language."

For his profession, its dignity, its honorable position in the regard of the people, its share in the administration of justice, and its claim for due recognition on part of the other learned professions, he had the highest regard and care; and nothing would so deeply stir his wrath as a flippant or ungenerous attack upon it.

This regard held by Judge Ryan for the almost sacred commission of the law—as it appeared to him—was set forth fully in the address delivered by him before the law class of the university, on June 22, 1880. The power and eloquent logic of that effort can hardly be conceived by those who have not perused it. It can, in some respects, be regarded as the finest specimen ever

given of his wonderful command of words, and of the riches that lay in the deep recesses of his thought. It is not merely an address for lawyers, but for all who have love of justice or a desire for truth—for all who care to hear what a master of his profession can find to say in its honor and defense. It is regretted that only a few random quotations can be given,\* rather than the address in full. To the young men before him, he said :

I welcome you to no tranquil life, no cultured ease. I welcome you to a calling of incessant labor, high duty, and grave responsibility. If our profession be, as I believe, the most honorable, it is also the most arduous, of all secular professions. Duty is the condition of all dignity. . . . Law in its highest sense is the will of God. . . . There is no incompleteness or insufficiency, no *casus omisus* in the divine law. It needs no revision, no office of construction. From the beginning, it is always the same, with no variability, neither shadow of turning. It is adequate to all conditions, all changes. It is all-sufficient for the government of human society. The problems of society and its troubles spring, not from insufficiency of the law, but from disregard of the law. The law is adequate to all the exigencies of society, all its chances and changes; but obedience to the law is essential to the order of society. . . . As man has labored and failed and erred in his comprehension of divine law, so has he therefore labored and blundered and miscarried his legislation. Perhaps in no other aspect of life has he more plainly manifested his slow and uncertain progress in civilization, or proved his own insufficiency for himself, his dependence on wisdom and power higher than his own. The history of human legislation is a record of error and presumption. From time to time man has established code upon code as the perfection of human wisdom; from time to time he has had to modify and change each; from time to time code upon code has been lost in the revolution or anarchy which surely awaits all systems of legislation not founded on the divine law. . . .

Young gentlemen, this is the profession which you

\* For the full text, see *Wisconsin Legal News* of August 18, 1880.

have chosen, to the discharge of whose active duties you are this day called. This address has been in vain if it have not verified the high, arduous and responsible nature of the duties which you are assuming; if it have not made manifest our profession as the noblest and loftiest of purely human callings. There it stands, the profession of the law, sometimes disgraced by error and sin, which are the common lot of all humanity. There it stands, the profession of the law, not always or fully appreciated by the world. There it stands, the profession of the law; subrogated on earth, for the angels who administer God's law in heaven. There it stands, charged with the peaceful protection of every public right of the state, of every civil and religious right of the people of the state; charged with the security and order of society. . . . The law is a science. It is no mere trade. It is not the road to wealth. . . .

Of the true duty and ambition of the lawyer, he had these strong and fruitful ideas :

This is the true ambition of the lawyer: To obey God in the service of society; to fulfill His law in the order of society; to promote His order in the subordination of society to its own law, adopted under His authority; to minister to His justice by the nearest approach to it, under the municipal law, which human intelligence and conscience can accomplish. To serve man, by diligent study and true counsel of the municipal law; to aid in solving the questions and guiding the business of society, according to the law; to fulfill his allotted part in protecting society and its members against wrong; in enforcing all rights and redressing all wrongs; and to answer, before God and man, according to the scope of his office and duty, for the true and just administration of the municipal law.

It is impossible to give space to even a synopsis of this remarkable address, and only a sentence can be culled here and there from that which remains—no attempt being made to give connection or due order of arrangement :

In our profession, character without high intellect is a greater power for good than intellect without high character.

The strength of a lawyer is in thorough knowledge of legal truth, in thorough devotion to legal right.

The bench symbolizes on earth the throne of divine justice.

Every good lawyer's office is a court of conciliation.

The bar does not claim to be the communion of saints. It only claims to be a noble organization of fallible men, in a fallible society.

Behold the pettifogger, the blackleg of the law. He is, as his name imports, a stirrer-up of small litigation; a wet-nurse of trifling grievances and quarrels. . . . He is a fraud upon the profession and the public; a lawyer among clowns and a clown among lawyers.

There is a variety of the animal, known by the classic name of Shyster. This is a still lower specimen; the pettifogger pettifogged upon; a troglodyte who penetrate depths of still deeper darkness.

Judicial nepotism strangles the very life of the judicial function; deposes justice from her own bench, and seats in her place, decked in her robes and masquerading in her semblance, the harlot of profligate family interest; to cozen truth and right, property and honor; to betray all that was dear to man, or tends to make life happy or holy; to poison the very bread of life.

In the battle of life we all stumble, we are all maimed. Few, if any, lay down their arms in that battle, without sense of failure or defeat.

True progress rests absolutely in man's obedience to the law appointed for him.

Man, indeed, organized society, but God ordained it.

Without the light of revelation, man, at his best, gropes painfully in the dark, and sees dim and shadowy visions of the divine order; phantoms of truth, rather than truth itself.

The deep undercurrent of religious thought running through Judge Ryan's nature, is suggested in the above. It is also the predominant feature of a lecture delivered by him on "Heresy," in the early part of which he said:

Heresy belongs not to theology alone. The word is pregnant with too shameful and terrible memories of wrong and suffering, the *thing* has played too potent and fearful a part in profane history, to be exclusively ecclesiastical. Its bloody path is tracked by fire and sword and gibbet through many Christian centuries. It has been too powerful an agent in the temporal fortunes of our race to be



overlooked or unconsidered in that aspect, by priest or layman, Christian or infidel, Jew and Gentile, who tries to read history by the light of philosophy. . . . It is often said that Christianity is the great element of modern civilization. It is more. Christianity is civilization itself. It is the essential distinction between the ancient and the modern order. . . . The Christian revelation gave to man his great charter of the freedom and immortality of the soul. It gave him a dignity and a career far beyond his mere animal being. It redeemed him from being, at his best, a polished brute. . . . Christianity has its temporal as well as its eternal uses. It not only drew the veil from eternal truth; it also revealed to man his own nature and relations in life, and founded the highest temporal philosophy. Philosophy has sometimes mistaken it for an enemy and wrestled with it. But whatever in philosophy found a real antagonist in Christianity, has died the death of error.

In this lecture Judge Ryan declared it his purpose to consider his subject "in a purely historical and philosophical view;" which he did with a breadth of vision, depth of thought, and fairness of historical statement that make the address one of the greatest ever delivered from the platform. A companion lecture was that upon "Faith," which was carried along the same line of thought, and was equally remarkable for its deep and sincere recognition of the Christian religion. "Faith," he declared, "is a natural necessity as well as duty of man. . . . The callous, gloomy, barren egotism of unbelief, is not only isolation; it is, even in a purely human sense, depravity. Man does not believe in truth, because he is not true; in worth, because he is not good. The unbelieving heart is a hermit, secluded, not from the vices, but from the virtues, of mankind. . . . History often seems a blind disorder of human folly, and passion, and guilt. Faith looks

through the darkness, and sees the manifest finger of God, writing his law in man's capricious career. It is a dread mystery how from that unfettered free will for good or evil, for which every soul born into time must fearfully account to him who gave it, Providence works out its own unerring ends. Man may violate the law of his being, but he cannot interrupt its operation. In his wildest apostacy, as in his most obedient faith, blindly in both, man's life is all tributary to the will of God."

Granting Judge Ryan's eloquence as a speaker and reputation as a lawyer and judge, it is needless to say that he was in great demand on the lecture platform. The genius of Dickens had scarcely given 'Bleak House' to the world, and "Mrs. Jellyby" had hardly had an introduction to the American public, before his quick eye fell upon her, and the suggestion came into his mind that she might be made to pose before the people in the garb of some sharp and instructive truths. He accordingly carefully measured her, and eventually made her the subject of an oft delivered and ever welcome lecture. It was a skillful but earnest and logical reply to many claims put forward in those days by the advocates of woman suffrage. Mrs. Jellyby is used merely as a vehicle. "Her enthusiasm is singularly patient and far-seeing," is a tribute he pays that much-abused woman, in the opening portions of the lecture. "Through all the mortification of abortive missions, amidst all the cares and troubles of the present mission, in the manifold distraction and trial of her

bedlam housekeeping, on the sudden disappointment of her daughter's ignoble defection, even at the ignominious failure of Borriboola Gha itself, she wears unruffled the calm, gentle serenity of her mind and manner, and wraps her patient dignity about her as a garment. And there is neither affectation nor effort in this. It is evidently constitutional, a manifestation of the general benignity of her character. There is nothing positively bad in Mrs. Jellyby's disposition. Her sins are all sins of omission. She is a woman of conscience, though her conscience be diseased. Think what we may of her life, to her it is a life of duty. To her own views of duty she devotes herself with untiring, uncompromising, unselfish energy. In this her portrait is distinguished in a masterly light from the group of philanthropists about her. Her integrity is unsullied by any taint of their selfish vanity. She is always earnest, always truthful. We may condemn her life, we may rail at her doctrine; it is impossible to regard her with personal disrespect. Judged by what she is, distinguished from what she fails to do, Mrs. Jellyby has no mean claim to our consideration as an amiable and upright woman."

Counting Mrs. Jellyby as "a representative woman," and "a type of the strong-minded woman," the speaker declared that "Mrs. Jellyby is no mere myth," and then proceeds with a personal application of her case to that "class of restless women of all grades of infelligence, discontent in a greater or less degree, with the position of their

sex in society. With more or less dignity and force some of these have written, some spoken, some acted, and some are now writing, speaking and acting, for a reorganization of society in its relation to woman." With a strong common sense, a careful concession of justice wherever it is demanded, and a humor hinted rather than expressed, Judge Ryan then proceeded to a consideration of the claims of woman as at that day advanced. Toward the close he summed up his conclusions in the mandate that while both sexes must abide the future, woman should be educated "in the hope of that future," as "society wrongs both sexes when it denies equal education to woman." But it was in the home circle that woman's true work was to be found. "The heroes of history are not always the saints of civilization. Men write, somewhat boastingly, the biographies of the great. Angels record the lives of women like Esther. With all her sins, the world admires Mrs. Jellyby but recoils with indignant disgust from her perverted womanhood. The world loves Esther Summerson with reverential love. This is the wholesome moral of our author. These are the uses of Mrs. Jellyby!"

Judge Ryan had also commenced a lecture on "The Reign of Mediocrity," which never progressed beyond a few pages of manuscript, which are now in existence. With two more extracts from speeches made by him upon important occasions, which illustrate his power upon themes diverse from the above, and from each other, we desist

from a line of enquiry that is certainly pleasant and full of rich and abundant fruits. In his speech in the prosecution of the Radcliffe murder case in 1852, we find this compact statement of truth:

Life is a gift of God, yet one which any, however weak, may take away, but which not the united power of all men in all countries and of all times can restore. . . . It is not that we crave for the defendant's blood that we stand here. We pity him. God knows that we pity him, and those who are connected with him! But we stand here for the blood of the living. It is not for the blood of Ross, but for the blood of everyone in this hall, and in this community; it is for the blood of those yet unborn, and of all who are to live after us; it is that murder may cease, that men may reflect, pause, turn cowards, before they strike down their fellow men; it is because the law of God and the law of man, and the safety and existence of society demand it, that we stand here and urge upon you a conviction of the defendant.

At the German Mai Fest, also in 1852, he delivered an elaborate address from which this thought is taken:

I have often thought that we in the west were a crowd rather than a community. We are no transmitted society, inheriting fellowship bound by blood and alliance, grown up together to dwell and labor in our fathers' places. We come here in the full maturity of life and character; we meet here from all quarters of the civilized earth. Our native manners, language and habits of life, of thought and of society, act in fact as a principle of repulsion between us. We scatter into clans, rather than merge in society. This is all wrong. We meet here by no accident; we are here to accomplish a great providence. The meeting in this great valley of the blood, the language, the literature, the manners, the arts, the industry, of all Christendom, to mix and merge and to become the elements of a new society and the seed of a new race, under the freest institutions and on the richest soil God's sun shines upon, is no blind chance; it is a pregnant combination ordained of the Providence which watches over the nations, and guides the progress of human civilization. We are here to mix our blood in a new race of men, superior to all races because sprung from all.

The literary faculty was so strongly developed in Judge Ryan that, had he devoted himself to letters instead of the law, he undoubtedly would have won a place in the front rank of American authors. His gifts and desires lay largely in that direction. It was his purpose, had time been allowed him in the severe labors of the law, to write a law text-book, and also an English grammar. His editorials in the newspaper for a time under his control were models of thought and diction. Since his death there has been discovered among his private papers the title-page, preface and commencement of a story he had at one time begun to write, but had never gone beyond an opening paragraph. This suggestive fragment is here reproduced in full:

EGOTISMS  
OF  
A BACKWOODS PEDAGOGUE.  
BY  
HUGH LESLIE.\*

I turn the trouble of my countenance  
Merely upon myself.

—SHAKESPEARE.

PREFACE.

I am what I profess to be, an egotist. These pages are but the written indulgence of a contemplative egotist.

If what is here written should be read, it will satisfy, if approved, it will gratify, the egotist. If read and censured, egotism has its sure consolations for criticism; if neglected and unread, the thoughts in these pages will grow the stronger and dearer in the secret repetitions of conscious egotism. Anyway, the egotist is repaid for the pleasant labor of writing.

Dear reader—for reading, you are dear to the egotist; do not lightly condemn me for my candor. The philosophy of self is not always selfish. God is the great EGO, and *God is love*. True egotism is

\* Made up of names occurring in his family history.

benevolent : true sympathy is but the reflection of benevolent egotism.

Read and judge.

H. L.

#### CHAPTER I.

The red sun of the Indian summer is just sinking behind the woods. The rich tints of autumn on the trees which crown the bluff die of brighter and more varied brilliancy in the subdued and broken light which penetrates them from behind. Below, the deep shadow of the woods is on the river, here and there relieved by the sunlight which breaks through, dancing on the calm waters in time with the gentle western breeze which plays among the tree tops. The distant hum of the town down the river is too faint to disturb the beautiful solitude in which the scene is sleeping.

Here on the yet green bank, with the broad clear waters at my feet, I have come to rest after my day's labor. This is my reward for the weariness of the schoolhouse and the turmoil of the town. To be alone with nature in its beauty, while the spirit turns within upon itself in chastened contemplation, is life indeed. Solitude like this is less lonely than most society.

Society ! What matters it to me here that in yonder burgh seems to be concentrated all the pretension which is the vice of all that is called society in western villages. Well, indeed, do I know that there is no family there of speculator, merchant, clergyman, lawyer, doctor or mechanic which does not look with civil condescension on the school-master, because I am school-master and pretend to nothing else, and because neither lands nor goods attest my worth. But let me believe that I am a gentleman, in all that goes to make one the equal of any and the superior of many of them, a voluntary exile from circles of which the good folks yonder are able to achieve only a rude imitation, and so smile serenely at the appreciation of the good society of the village of La Fontaine.

Only this, and nothing more. Not a line or word in continuation of an idyl that must have been fruitful in thought, full of sound sense, and beautiful in language and expression. It certainly would have graphically described some of the social absurdities and cruelties of the early and unformed west.

Among his papers was also the rough outline of a poem of Judge Ryan's composition, which seems to have been written about the time of the loss of his first companion ; and with the reproduction of which these random quotations will be brought to a close

Ah me!

To be

Alone, uncared for and unaided.

Wearing out life

In hopeless strife,

Heart dead, mind broken, spirit jaded.

I know

I owe

Duties that might make life a treasure,

But that my heart

Has now no part

In aught that can make living pleasure.

To tread

For bread

Life's highways,\*

Without one heart

To be apart

With mine in sweet affection's by-ways.

Oh would-

I could

Flee off and be at rest forever!

In the dull grave

At last to have

The peace that life can bring back never.

Yet no,

Ah no !

Heirs of my grief ye do not know yet,

The love that bears

Lone years on years,

For ye the calm grave to forego yet!

JOSHUA STARK.

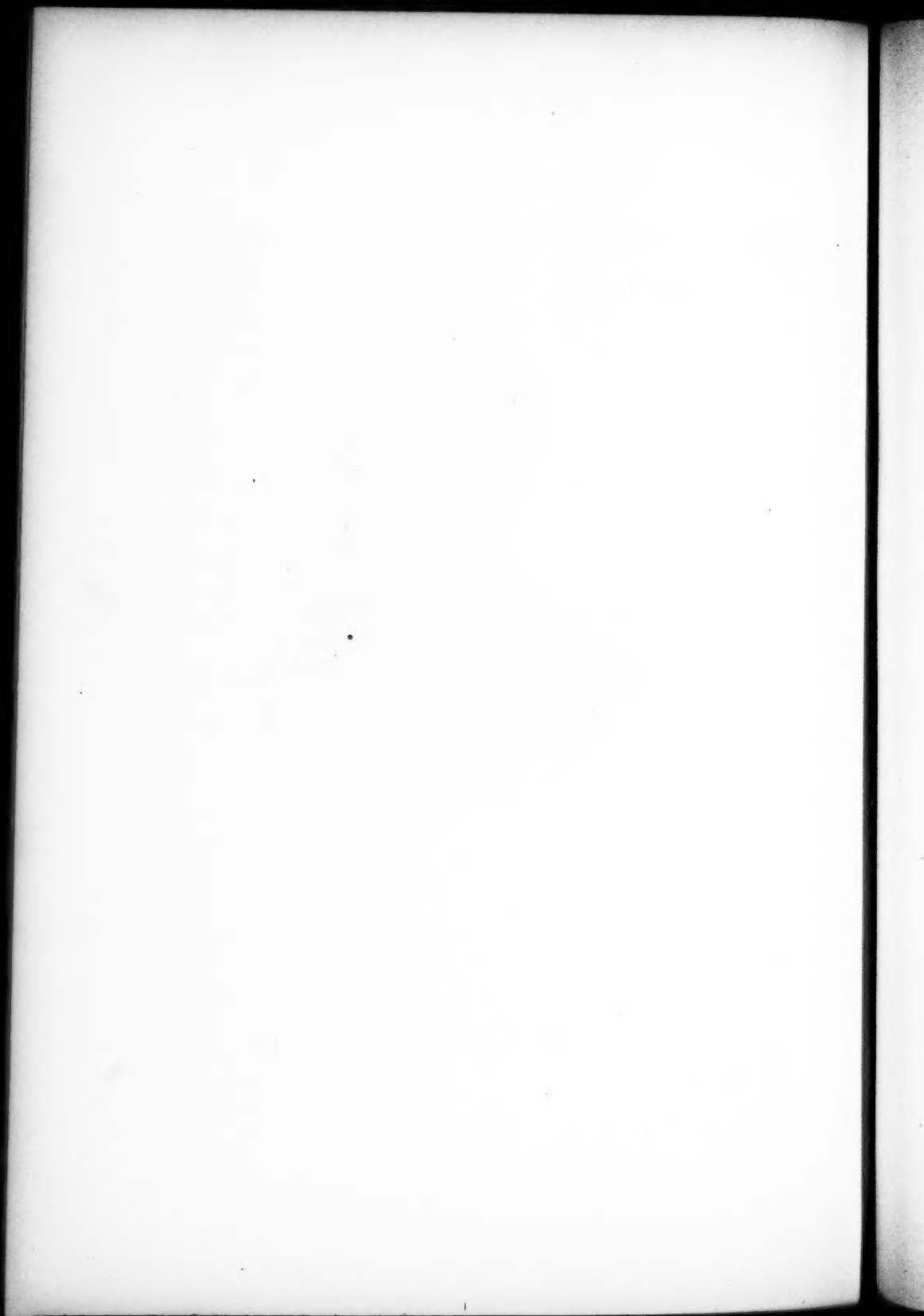
Among the hopeful and well-equipped young men who came to Milwaukee during the period described in the fore-

\* The poem was incomplete in this line ; words having been supplied and then erased.





Joshua Stark



going, was Joshua Stark, who is now one of the leading members of the Milwaukee bar, and who, in various positions of public trust, as well as in the walks of professional and private life, has proved himself worthy of the honor in which he is held. Whatever he has gained in the successes of life, has come through no accidental favor of fortune, but has been dug out by hard work, persistent energy, a belief in the ultimate triumph of good principles as applied to business affairs, and an unselfish devotion to whatever trust might be reposed in his hands.

Mr. Stark is the descendant of a family well known in New England, and was born at Brattleboro, Vermont, on August 12, 1828. He was the son of Rev. J. L. and Hannah G. Stark, both of whom were natives of Bozrah, Connecticut. They removed to Canajoharie, New York, in the spring of 1839, and three years later to the village of Mohawk, where the son commenced his education, and was prepared for college by a proper academical course. He entered Union College, at Schenectady, in the spring of 1846, joining the sophomore class. From January, 1847, to January, 1848, he was employed as a tutor in the family of Edward C. Marshall, in Fauquier county, Virginia; but the love of learning and ambition for success were so strong upon him that he pursued his studies during this time, and kept up so well that upon examination he was permitted to resume his standing and graduate in 1848, with his class. In the fall of that year he made arrangements to go to west Maryland

to teach a classical school, but because of the unexpected death of an elder brother, was induced to forego that purpose, and enter the law office of J. N. & D. Lake, at Little Falls, New York. While applying himself to his legal studies with the industry that has ever been a characteristic of his life, he was compelled to devote a portion of his time to other work, as a means of maintenance, and was for a time an assistant instructor in an academy, village clerk, and town superintendent of schools. He was admitted to the bar by the supreme court of New York, at general term, at Watertown, in July, 1850.

While revolving in his mind the question of location, the suggestion was made that the west was the proper point for a young man of energy and brains; and after due consideration he concluded to adopt Horace Greeley's advice years before it was given. With a few books and little money he set forth in the fall of the year last named with Milwaukee as the point of destination. Proceeding by rail to Buffalo, the rest of the journey was made by boat, and terminated on October 6. By the advice of people whom he had known in early youth, he did not locate immediately in Milwaukee, but proceeded to Cedarburg and formed a partnership with F. W. Horn, the expectation being that the acquaintance of that gentleman would bring business, which the legal knowledge of the junior partner would enable him to properly transact. Like many other theories, this proved a failure when reduced to practice—or rather a lament-

able lack of practice; for the clients failed to come. A long and weary winter ensued, relieved not even by the presence of his partner, as Mr. Horn was absent in the state legislature. Mr. Stark had more courage than cash, and when he saw that the practice of the firm was not sufficient even for the payment of board, he indulged in some deep reflections as to the best course to pursue, that the time might not be altogether lost. The feelings of the young man at that time have been so aptly described by himself, and the conclusion he reached is so full of suggestion to other young men placed in like circumstances that I cannot forbear to quote from a communication penned by him in the dismal season of an unfortunate beginning. He writes, under date of November 29, 1850:

I have little to say of the occurrences of the past six days—suffice it to say they have possessed little interest to me, and I feel symptoms of dark days coming upon me apace. Business has not as yet been enough to pay for board. What is in the future I cannot anticipate, though I am bound to hope for the best. I fear, at present, that I have been gloriously deceived. If it be so, I am indeed sorry. But I do not know that I have done unwisely. I have merely followed the advice of those I had every reason to believe to be my best friends. They may have been deceived, and I may be the victim of their deception.

It is a sacrifice of no ordinary kind to abandon all the pleasures of social life, of which I am so fond, and spend a winter among foreigners, speaking an unknown language; but to be compelled to do so without occupation to dispel the ennui of such a condition, is a trial I dread.

It is true the deep interest I have taken in the study of the German language, and in making up the deficiency I felt in knowledge of chancery practice, and the principles of equity jurisprudence, have operated to preserve my equanimity very well thus far. But this interest, though continuing strong, cannot suffice

for the employment of a whole winter. I expect I shall be gloriously blue ere many days are passed. I have fought against them manfully, and must congratulate myself upon my success in defeating their worst assaults. But the strongest defences I can contrive must give way, if I do not have work to do, or see the prospect of a livelihood before me. Of course in this state of mind I am continually contriving plans for the future. A few days since I wrote to sister—that I should probably make Milwaukee my residence as soon as I have acquired a reasonable facility in the use of the German tongue. The disposition to do so has increased with time, and I now feel as though the chief purpose of my studies should be to acquire that facility, and leave this dull and unattractive spot.

At a later date, December 1, of the same year, he writes:

My efforts to learn the German language are unintermitting. The difficulties in the way are great, but *can* be overcome. The inflection of nouns, adjectives, etc., varying according to a thousand rules, as gender, euphony, case, signification, position, etc., may require, and the arbitrary application of the distinctions of gender, are but examples of the great obstacles in the way of acquiring a correct use of the language. The idioms are peculiar and many. The language is inverted. Compound verbs are often separated and the particle or auxiliary removed six or eight lines from the verb. Of all these difficulties I become daily more sensible, and at the same time I become daily more sensible of the importance of learning the language. The Germans are nearly one-third of the population of this state. They are generally industrious, and will become wealthy, and must exercise important political influence in this state. Their business to a professional man is not to be despised, and it is further true that for many years to come he who would transact their business must understand their language.

There are very few who do this, both from the intrinsic difficulty of learning it, and from the want of time and patience to learn it well.

I have resolved, if my life is spared, to master the language, and to acquire facility in the use of it in conversation, common, social and professional.

I have determined not to be satisfied with a mere ability to express my thoughts upon common subjects intelligibly, but to press my attainments to that mark that I may speak eloquently and fluently upon



general matters of business, of politics, religion or fashion, so that Germans themselves shall not from my speech suspect my origin; so that, if occasion require, I may address a German audience in their own tongue without embarrassment. It is a great task, and will require time and patience. \* \* \* I doubt if I should ever have consented to make this even a temporary home could I have known the lack of business that would attend me here. But I am here. Business can hardly be less than sufficient to support me, and I will not leave till I have, in one shape or another, ample remuneration for the time here spent. I have recorded my resolution. It reads somewhat like the soliloquy of the maid bearing the basket of eggs. It remains to be seen whether it is to end thus. *Nous verrons.\**

Satisfied that the field was not promising, Mr. Stark removed to Milwaukee on May 19, 1851, and has since made that city his home. He won such standing among the people that in the spring of 1853 he was elected to the office of city attorney, holding the position for one year, and serving to the satisfaction of the people. In November 1855 he was chosen as the Democratic representative of the first Milwaukee ward to the general assembly for the session of 1856. He was made chairman of the committee on judiciary, and a member of the committee on banking; and although the second youngest member of the body, was chosen the speaker *pro tem.*, in which capacity he presided during a large portion of the adjourned session in the fall. During the regular session, the gubernatorial contest between Messrs. Bashford and Barstow

\* This determination was carried into effect so thoroughly that Mr. Stark was enabled to speak German perfectly; so much so that at the Fourth of July celebration in 1852 he was chosen by the Germans to read the Declaration of Independence in German—in preference to the selection of one of their own number.

came before the legislature and the supreme court. Mr. Stark refused to join in any resistance to the decision of that court, and materially aided in preventing a serious collision of opposing parties. A defalcation in the state treasury, discovered a short time before the adjournment, led to the appointment of a joint committee of investigation, and an adjournment of the session until September, to receive and act upon the report of that committee. Near the opening of the regular session a communication from the holders of scrip, issued by the state "for the construction of the Fox and Wisconsin river improvement, had brought to the notice of the legislature the fact that the improvement company to which the state had in 1853 transferred the improvement and the congressional grant of land in its aid—upon condition that said company should pay the indebtedness of the state incurred on account of the work—had neglected to comply with this condition, and had permitted coupons for interest to be protested for non-payment, and the credit of the state to be seriously prejudiced." The whole matter was referred to a select committee, consisting of Joshua Stark of Milwaukee, chairman; M. M. Davis of Portage City; and Charles H. Walker of Manitowoc. Other matters of importance relating to the improvement company and its execution of the important trusts conferred upon it by the state, came to the knowledge of the committee, causing it to make a report to the assembly on March 21. They recited the history of the improvement,

and in referring to the company having it in charge said: "Against this company, so richly endowed by the state, serious charges of bad faith and breach of contract are made. There are not a few who insist that the state ought in justice to herself and to save herself from further loss and discredit, to repeal the charter of said company and to resume the possession and control of the works and property transferred to them." The report further recited that by the refusal of the company to pay the interest accruing on the scrip issued by the state for such work, the reputation and credit of the state "has been depreciated, and confidence in her integrity and good faith shaken and impaired." The committee closed with the declaration that the question was too deep and far-reaching to be decided upon a hasty view, and recommended that a committee be appointed to go into the consideration of the whole matter.

Such committee was appointed, of which Mr. Stark was made a member, with instructions to sit during the summer, and report in the fall session. They went at their work in a business-like manner, leaving nothing to guesswork or hearsay, but founding their conclusions upon actual knowledge. They visited and inspected the improvement, traveling from Portage City to Green Bay, and were so thoroughly informed of what had been done and what ought to be done, that in the fall they were prepared to recommend the passage of an act to secure the rights and protect the interests of the state, and the prompt completion

of the improvement. The act was so passed, and secured the approval of the governor on October 3, and resulted in the speedy payment and extinguishment of all obligations of the state incurred because of the improvement. In this great work Mr. Stark was an earnest and industrious worker, and his sound sense and fine business judgment were displayed and made of use in every point and turn of the investigation.

In 1856 congress made a grant of land to the state of Wisconsin for railroad purposes, and the disposition of these lands was one of the leading questions under discussion in the special session. The scandals that grew out of those matters need not be referred to here, except to make record of the fact that Mr. Stark came out of the whole matter untouched by any taint of acceptance of railroad bonds, and that his share in all the transactions was shown to have been honorable and above suspicion by the committee of investigation of 1858.

In the fall of 1860 Mr. Stark was again called to a position of public responsibility by an election to the office of district attorney; which he held through 1861 and 1862. At the outset of his term he found the course of criminal justice completely blocked by a conflict of opinion between the judges of the municipal and the circuit courts. The municipal court had only been established in 1859 and there was no express statute directing to what court indictments found therein should be sent for trial, when removed upon affidavit that the judge was preju-

diced. Certain indictments for highway robbery, by the method known as garroting, had been so removed, and were sent by Judge Mallory to the circuit court of Milwaukee county for trial. The affidavit of prejudice had been made with a view to remove the cases to another county.

When these indictments were moved for trial in the circuit court at the first term after Mr. Stark entered upon his duties, he was met by defendant's counsel with the objection that the circuit court had no jurisdiction, since, as was contended, the statute only authorized the removal of criminal indictments from the municipal court to another county, and not to another court in the same county, for trial. This disagreement of the judges arrested all prosecutions for high crimes, and threatened serious consequences. In this dilemma Mr. Stark applied immediately to the supreme court for a mandamus to compel the circuit judge to proceed to the trial of the indictments in question. The matter was pressed to a speedy hearing, the important constitutional question involved being ably argued by Mr. Stark. The result was an early decision sustaining the jurisdiction of the circuit court, and commanding its judge to proceed with a hearing of the cases.\*

The most important criminal prosecution during Mr. Stark's term arose from the lynching by a mob of citizens in the summer of 1861, of a negro who was believed to have killed a white man

in a street quarrel. Several of the supposed participants in the lynching were indicted after a very thorough investigation. The case excited much public interest, and aroused intense feeling and race prejudice. The prosecution of the district attorney was fearless and energetic, the defense being conducted by J. E. Arnold. Upon the first trial the jury disagreed, and were discharged after a most stormy discussion of the case. A second trial resulted in the acquittal of the defendants.

In 1862 Mr. Stark, as district attorney, was enabled to perform a service to the public of no small value. In that year the state supreme court, all the judges concurring, held in a case that was appealed from Milwaukee county, that the act of the legislature passed in 1854, requiring railroad companies to pay into the state treasury a percentage of their gross earnings, in lieu of taxes, and exempting their property used for operating their roads from taxation, either general or local, was unconstitutional, and that all taxes throughout the state, which were affected by the omission of such railroad property from the tax rolls, pursuant to said act, were void by reason of such omission. The decision affected the taxes of several years, and threatened to be very embarrassing in its consequences. Mr. Stark, as district attorney, representing the losing party, moved for a rehearing, and so vigorously attacked the decision, urging the application of the doctrine of *stare decisis*, upon the strength of an unreported decision of the supreme court in 1855,

\*State ex rel Stark vs. McArthur, 13 Wisconsin, 428.

sustaining the act, that the judges were constrained to order a rehearing, and upon further consideration, to affirm the constitutionality of the act in question.

In 1873 Mr. Stark undertook for the city the revision and consolidation of its charter, with its numerous amendments, covering a period of twenty-one years; and also of the general ordinances adopted during a longer period. The work was mainly done out of business hours. When completed his services were further required to frame amendments proposed by the city council, making changes of a radical character in the municipal government. The whole task was of the most exacting character, requiring great legal knowledge, untiring patience, severe labor, and sound judgment, and the manner in which it was completed by Mr. Stark showed him to be the possessor of these diverse requirements.

Any recital of Mr. Stark's public labors that did not give prominence to his work in connection with the public schools of Milwaukee, and do full justice thereto, would be very incomplete. In September, 1871, he was made a member of the school board for the seventh ward. In June, 1873, he was compelled to resign the position because of outside work, but resumed it in April, 1874, and continued steadily in the work until the summer of 1884. In the spring of 1875 he was elected president of the board, and held the office by successive elections until the close of his connection with the schools. His thorough education, early experience in school work,

and sound business sense, made him of great use to the schools, and enabled him to administer his duties to the best interests of all concerned. We gain some idea of the spirit in which he viewed his trust from the following, taken from one of his annual reports:

The quality of the schools and their value to the public depend upon the judgment and integrity with which these simple duties are performed. Primarily the action of the board concerns only the very young, those who have no voice in public affairs, or in the conduct of business. Its agents are chiefly women, who are barred by our laws and customs from any active part in politics and public life. But as these children who are the objects of our care, and for whom we are charged to provide fit training and instruction, are soon to become men and women, and share in the high duties and responsibilities of American citizenship, and as the public school is to the vast majority their only means of education, and must exert a very great influence in forming their mental and moral character, we rightly judge that no department of city administration more deeply concerns the well-being of the city and its people, than the one over which we are placed.

As president of the school board, Mr. Stark was *ex-officio* a member of the committee on high schools and of the board having control of the public library. He gave an efficient and earnest service to both of these important institutions. He was active in the aid of any movement that would elevate the standard of qualifications and promote the material interests of the teachers, or advance the cause of education in the city. He kept a vigilant eye upon the entire school system while at its head, and had no small influence in directing the policy and work of the board. It was therefore with no small degree of regret that the public learned early in 1884 that, in obedience



to the demands of his private affairs, Mr. Stark was compelled to sever the connection he had so long held with the schools. There was not only no lack of private expressions of regret at this decision, but the general feeling took such public action and shape that the recipient thereof could but feel that his willing services had been observed and appreciated. When his decision was made known to the board, its opinion of his work was expressed in a series of resolutions, from which the following is taken :

*Resolved*, That this board cannot in justice to itself and to the retiring president disband without putting on record its sense of the gratitude that is due to Hon. Joshua Stark, who has been for thirteen years a member, and for nine years president of this body. During that long period of service, the public school system of the city of Milwaukee has made a great advance along every line of progress, and he has been no mere spectator of the improvements that have been secured, but has taken an active part in every educational question that has agitated the board and the city ; and it is not too much to say that much of what has been accomplished is due to his zealous and intelligent service on the floor of the board, in the committee room and in the chair. We venture to extend to him not only our thanks, but the thanks of all the friends of public education in Milwaukee, for his arduous, protracted and valuable service, and the great sacrifice of time and labor which these services have involved, and send with him into his retirement our best wishes for his success and happiness in the years to come.

The teachers of the schools felt that in the departure of Mr. Stark from the board they had lost one of their most valued advisers and truest friends. They united in the preparation of a series of resolutions which, like those of the board, were handsomely engrossed and framed before presentation. In this expression of their feelings the teachers

declared that in his retirement from the board the public school system of the city had "lost one of its strongest and ablest supporters ; one whose character and attainments made him a most worthy champion, and whose enlightened judgment and broad views constituted him one of the foremost advocates of every true educational reform. . . . Especially have you deserved and secured our confidence and esteem through your unflagging efforts to ennoble the work of the teacher, and lift it to the dignity of a profession." Mr. Stark was also tendered a testimonial reception at the normal school building, where teachers, members of the board, and many others met him, and in short and pointed speeches touched upon the value of his school work. He was also presented with a life membership in the National Teachers' association.

The evening of June 9 saw at the Plankinton house an even more marked and general tribute to the retiring president, in the shape of a banquet tendered Mr. Stark by prominent educators and professional and business men generally. All the accompaniments of music, flowers, and an elaborate menu were provided, while many prominent gentlemen were present from various parts of the state. The president of the evening, in the introduction of the honored guest, among many other things, said :

We have met to honor one who in long and tedious years has faithfully served his kind. With an ardent love for his purpose, he combined an exceptional faculty, a peculiar fitness, and high ability for the fulfillment of the duties assigned to him. His was not pecuniary reward ; to the contrary, the execution of the charge imposed upon him a great per-

sonal sacrifice. . . . He has made his mark, and when he seeks the needed and well-deserved rest, when we begin to notice the loss we have sustained, then there comes an uprising of great appreciation, and we assemble to pay a tribute to his merit, and partly pay a debt of gratitude.

Many other remarks of the same tenor were made by other prominent gentlemen, among whom were President Bascom, of the State university; President Albee, of the Oshkosh State Normal school; and Mr. Chandler, assistant state superintendent of schools. When Mr. Stark came to respond, out of a full heart, he struck the keynote of the spirit in which he had sought to do his work, in these words:

For thirty-three years I have been a resident of Milwaukee. All the years of my manhood have been spent here, and my loyalty to the interests and pride in the beauty and fame of the fairest city of the northwest have never faltered. Faithful, at least in purpose, to the lessons of my youth, I have gladly borne among you some part of that great public service which every citizen owes the commonwealth. That service has been its own reward. There is no office of honor in city or state which could have been more congenial to my taste, none whose duties I could have discharged with more genuine gratification to myself than that in which such service was rendered. I have been proud to have been identified with the great work of public education here at home, and to give such aid as I might to those who were laboring to build up and strengthen the common schools as a leading force in the progress and elevation of our people. The pleasure of this service has been enhanced by the fact that I was free from political or personal obligations, and held and exercised official trusts subject to no condition or control. If, to the pleasure of such untrammelled service, I may now add the joy of your approval, I must deem myself the most fortunate of men.

Mr. Stark has served the people in many ways other than those enumerated above. He was one of the charter members of the Milwaukee Bethel

union and one of its directors through a number of years. In 1883 he was elected president of the Milwaukee Bar association, which position he yet holds. He has had an active part in various associations for the advance of music, art and education, where his fine natural taste and culture have been made instruments for the general good. He was for some years a director in the Milwaukee Musical society, and is yet one of its contributing members. In 1885 the legislature provided for the creation of a commission to examine all candidates for admission to the bar, with the exception of the graduates of the law school, said appointments to be made by the judges of the supreme court. Mr. Stark was one of the original appointees, and is still a member of the commission. They hold such examinations as they deem best, and the result of their labors has been to prevent the admission of unworthy or incompetent men. Although Mr. Stark was not in the military service during the war of the rebellion, he loyally gave his aid to keep alive the courage and patriotism of the north, attending war meetings and doing all that lay in his power for the good of the cause.

Among the important suits in the law courts with which Mr. Stark has been connected, mention may be made of the case of the Northern Transit company vs. the Grand Trunk Railway company, in which he was associated, in the defense, with Hon. G. W. Hazelton. The action was brought to recover two hundred and fifty thousand dollars damages for breach of contract for interchange

of traffic during the years 1879 and 1880. The plaintiff claimed that in various ways it had been subjected to enormous losses by defendant's neglect to carry out certain stipulations in the contract, and furnished statements and schedules of such losses, prepared by its officers and accountants, and purporting to be based upon its accounts and actual transactions. Plaintiff's employes and officers testified to the correctness of such statements. The case was twice tried. Upon the first trial the jury assessed the plaintiff's damages at something over one hundred and twelve thousand dollars. The verdict being set aside as excessive, a second trial was had, lasting nearly five weeks. Mr. Stark had not been employed in the first trial, but went to work upon the second with a determination to work down to the facts of the case. By a thorough scrutiny of plaintiff's books of accounts and documents, during the progress of the trial, he was able to demonstrate that the greater part of the plaintiff's pretended losses were fictitious, and the recovery was reduced to less than ten thousand dollars, including interest. The labor he gave in searching through voluminous accounts and papers, and in detecting and exposing the fallacy of claims made plausible by shrewd presentation, was exhausting, being done wholly after the evening adjournment of the court, and often continuing through a large portion of the night.

Mr. Stark's preference has always been for the department of equity, and in that branch of the practice has been

mainly employed, and has therein won his chief victories. The well known cases of *Nolsen vs. the Supervisors of Port Washington* (37 Wisconsin, 168); *Odell vs. Rogers & Burnham* (44 Wisconsin, 136, and 61 Wisconsin, 562); and *Wells vs. McGroch*, and the suits brought to determine the construction of the wills of the late Thomas M. Knox (59 Wisconsin, 172), and N. B. Caswell (63 Wisconsin, 529) are among the more important litigations upon which he has expended his best energies during the last ten years. Except the *Wells-McGroch* case, all of the above named have been before the supreme court of the state, whose reported decisions bear testimony to the difficulty and importance of the questions involved, and the industry and ability expended in their discussion.

In addition to the natural substratum of ability, without which the success which Mr. Stark has obtained could not have been possible, he is endowed with the quality of thoroughness, and a persistent energy that fears no labor. When his services are enlisted in a case he works upon it day and night, if necessary, without regard to the pay that is to be secured, or the amount that may be involved. He is shrewd and astute, and no case can be so complicated but that he will solve it. His business qualifications are admirable, and as a member of the bar aptly expressed it: "He understands figures and bookkeeping better than a bookkeeper." He is especially strong in equity cases; is a great reader and yet regards law as a science that cannot

be altogether learned from books. He prepares his cases with the greatest care, and before going into court understands all the dangers and possibilities which he may be called upon to confront. As a man and citizen he possesses the highest regard of all who know him. His personal life is without reproach, and his home and family re-

lations are of the happiest and most harmonious character. His generous deeds are performed without ostentation but in abundance, and there are very many whose loads have been lightened and way made more peaceful and secure because of his hearty sympathy and generous aid.

J. H. KENNEDY.

## THE BENCH AND BAR OF TORONTO.

### VIII.

THE HONORABLE SIR WILLIAM CAMPBELL, CHIEF-JUSTICE OF UPPER CANADA.

THE Honorable Sir William Campbell was one of those men who could adapt himself to circumstances, equally at home, in the battlefield, the senate, or on the judicial bench. He was not born to greatness, nor was greatness thrust upon him, but with true Scotch perseverance he may be said literally to have risen from the ranks to fill one of the highest of colonial positions, that of the chief-justice of the king's bench in the dependency of Upper Canada, once called by Queen Victoria the brightest jewel in her queenly crown.

William Campbell, afterwards Sir William Campbell, was born in Scotland in 1758. Wolfe had not yet taken Quebec; within a year afterwards the second strongest fortress in the world had fallen before the irresistible force of British arms. Of the regiments which took part in the capture of Quebec, none was more conspicuous than the

Scotch Highlanders—the seventy-eighth regiment. The boy William Campbell was but a baby in arms at this time. As time wore on and the sounds of war continued to echo in the woods and ways of America, the boy Campbell was growing from infancy to youthful manhood. When a Highland regiment was ordered to America to quell the strife existing in the colonies, the future chief-justice, fired with military ardor, enlisted as a private in a Highland regiment. He came to America with his regiment to take part in the Revolutionary war. Engaged in the conflict: was at the battle of Yorktown in 1781: here his military career ended; the fortune of war was against the British—Lord Cornwallis was obliged to surrender, when the young soldier Campbell became a prisoner with the rest of that general's command. When this event occurred, William Campbell was but



twenty-three years of age. When peace was proclaimed in 1783, Campbell got his discharge, and determined to make British America his future home.

It occurred to him that Nova Scotia, England's oldest colony, might afford him a field for future action, if not in a military, at least in a civil capacity. Impelled by this idea, he made his way to the land of the Acadians; here he devoted himself to the study of the law; was called to the bar in that province, and after nineteen years' practice was appointed attorney-general of Cape Breton, and was also elected a member of the assembly of that province. On the eighteenth of November, 1811, he was promoted to a puisne judgeship in Upper Canada. He was the first of the Upper Canada judges appointed to the bench of that province from the bar of a maritime province. He did not attain to the chief-justiceship till 1825, on the retirement of Chief-Justice Powell.

There is a folio volume of reports in the Osgoode Hall Library called 'Campbell's Manuscript Reports,' which contains the cases decided by the judges of the king's bench, beginning Trinity term fourth George IV (1823), and ending Trinity term eighth George IV (1827). There are no Upper Canada reports extant of the period 1811 to 1823. The 'Campbell Manuscript Reports' containing the first record of decided cases in the province, have for the most part been printed, and now form the first of the series of the Upper Canada court reports, under the name of 'Taylor's Reports.' Thomas Taylor was a barrister of the Inner Temple,

called to the bar of Upper Canada in 1819. He was the first authorized court reporter of the king's bench, having been appointed to that office under the provincial statute four George IV, Cap. 3, entitled "An Act for providing for the Publication of Reports of Decisions of His Majesty's Court of King's Bench in this Province." It is a singular fact that in England there had been no public reporter since the reign of James I, who at the instance of Lord Bacon appointed two with a handsome stipend. The Canadian legislature seems to have followed not only the advice, but the example of Lord Bacon in providing for official reports. Lord Bacon was himself much imbued with the idea of the necessity of such an officer, for in his '*De Argumentis Scientiarum*' he wrote:

Above all let the judgments of the supreme and principal courts be diligently and faithfully recorded, especially in weighty causes, and particularly such as are doubtful, or attended with difficulty or novelty, for judgments are the anchors of the laws, as laws are the anchor of the state.

The most important cases with which Judge Campbell had to deal were those tried at York in 1818, growing out of the riots on the Red river, sometimes called the Red river rebellion. In the life of Chief-Justice Powell, I have referred to, and given some account of, the trial of the rioters in these cases. As then related the presiding justice at the trial was Chief-Justice Powell, but he had with him on the bench Judge Campbell, then a puisne judge not many years after to succeed the chief. The record of these trials shows that he, equally with Chief-Justice Powell, was firm in his rulings tending to the

elucidation of all the facts connected with the riotous proceedings on the Red, and the conduct of Lord Selkirk fomenting insurrection in that country. Lord (the earl of) Selkirk was a Douglas, and the Douglasses were not without a name in Canada. General Sir Howard Douglas, baronet, G. C. B., received his title for having forced a passage up the St. Lawrence to the relief of Quebec in 1776. He was in the battle of Corunna, served in Spain in 1808, 1809, 1811 and 1812, and was governor of New Brunswick from 1823 to 1829. The earl who was the cause of so much trouble in the northwest in 1816 was a rash and impetuous man. His advent to the country was caused by a desire to colonize a distant land, and it may be to improve the condition of his Scotch adherents. He was not long, however, in the country before he began to wage war with the traders of the Northwest company. Reading an account of the occurrences of these days, where in what is now Manitoba and the Northwest territory, the rival companies, the Hudson bay and the Northwest, contending for the mastery is like reading a novel. When we come to read the trial of Paul Brown and Francis Boucher for murder, tried at York in October, 1818, before Chief-Justice Powell and Justices Campbell and Boulton, William Allen, esq., associate, we can see the bitter enmity that existed between these rival trading companies, culminating in rebellion. Paul Brown and Francis Boucher were half-breeds, tried for the murder of Robert Semple, generally

called Governor Semple, but as was argued at the trial, with about as much title to the designation of governor as a bashaw or a bushwhacker.

The bloody conflict that took place between the partisans of the companies was something like the clashing of the clans in Scotland. Earl Selkirk himself was a kind of free-booter, and vainly imagined that he could root out the traders of the northwest. There are many who wish he had; as if he had succeeded the northwest would have been some half century ahead in civilization. The trappers and the traders would have given way to the plow and the reaper, which were by the contrivance of the Hudson bay company and their King Charles charter, kept out of that country for nearly two centuries. On the trial to which we have referred, some idea of the kind of settlements there were on the Red river may be gathered from the evidence.

The attorney-general for the prosecution was arguing that the prisoners were interfering with the settlers in their peaceable possession of their lands at Fort Douglas (for the rival parties had forts, such as they were; the Hudson bay company Fort Douglas, and the Northwest company Fort Gibraltar). Mr. Sherwood, the counsel for the prisoners, challenged the attorney-general's statement that there was a settlement; that in fact the so-called settlement was but a camp of traders, living and trading in tents. The chief-justice, addressing the attorney-general, then said: "It appears rather,

Mr. Attorney, to have been habitations than a settlement."

The Hudson bay company had provided themselves, with arms for the protection of what they claimed as their territory.

One Heden, in giving his evidence, said: "I was in the battle of the nineteenth of June. The Bois Brulés did not come to our fort. They kept about a quarter of a mile distant from it and passed it. We had cannon in the fort."

The whole of the proceedings of Lord Selkirk in the western country were of a lawless character. After laying charge of murder, burglary and arson, all at that time, capital offenses against partners of the Northwest company and their retainers on the Red river and at Fort William, he delayed bringing them to trial for nearly two years, they being all the time in prison. The prisoners were never in fact brought to trial by him, for he left the country without proceeding with the prosecution, and the government had for very shame's-sake to place the accused on their defence, when after a prolonged trial they were triumphantly acquitted, at the court of oyer and terminer at York in October, 1818. At the following assizes for York two civil cases of importance were tried arising out of the proceedings of Lord Selkirk. One of these was an action brought by William Smith against the earl for false imprisonment.

The circumstances were that Smith was under-sheriff of the western district, and was the bearer of a writ of restitution founded on a verdict of a

special jury at Sandwich in October, 1816, granted by the sitting magistrates ordering the restoration of Fort William to the Northwest company; also a warrant for the arrest of several persons at Fort William. When Smith arrived at the fort and produced his writ Lord Selkirk refused to comply, and when he and the others were arrested under the warrant, which was for a felony, they put Smith out of the fort and placed him under military guard, and he was not liberated till the evacuation of the fort by Lord Selkirk in May, 1817. For this Smith brought his action against the earl and obtained a verdict of £500 (\$2,000). Daniel McKenzie also brought an action against the earl for throwing him into a dungeon at Fort William without legal proceedings, for which he obtained a verdict of £1,500 (\$6,000).

Notwithstanding the apparent lawlessness and defiance of authority to which I have referred we must recollect that all these proceedings took place in a new and uncivilized country—a country of half-breeds, traders and Indians. Several interests of a conflicting nature were at war with each other. The traders' interest was clearly opposed to a *bona fide* settlement of the country by either English or Scotch farmers. It is fair to the memory of Lord Selkirk to say that he was in very deed a colonizer and a brave and good one at that. No one can read the history of Prince Edward Island without acknowledging the good done by Lord Selkirk there, by importation into that island of his hardy highlanders. There is reason to

believe that if he had been let alone in the northwest the valley of the Red river would have been a flourishing and rich state, a century before it became a province of the Dominion.

Judge Campbell was promoted to the chief-justiceship of the kings bench in 1825, on the retirement of Chief-Justice Powell. It is said by those who profess to speak with knowledge of the time, that had it not been that John Beverly Robinson, then attorney-general, was considered too young for the judgeship, he would have been elevated to the bench; indeed, made chief-justice at the time of Judge Campbell's promotion. Judge Campbell was sixty-six years of age when he was appointed chief-justice. It was a saying of the wags of the day that he at that age was so appointed to keep the place warm for the attorney-general, whom it was well understood would succeed him in the office when he should have arrived at a chief-justicial age. Judge Campbell had not been long promoted to the chief-justiceship before it became within his province to preside at important civil trials at York, which were of much interest to the whole community and the cause of much acerbity of feeling. In 1826 the old system of might governing right was still in the ascendant in the province. The officials of those days held in undisputed sway in the province. There was no responsible government; the people might be in accord in one way of thought and action, but if the executive were of a different way of thinking it was the executive that governed; not the people, represent-

atives of the people, or a government possessing the confidence of the people.

William Lyon McKenzie was a politician and publisher rapidly gaining the voice of the people. He had removed his *Advocate* newspaper, a Liberal organ, from Queenstown to York. While Mr. McKenzie was absent from York on business, young men of the town, principally sons of officials, fired with zeal for the cause of oligarchical rule, thought it a noble thing to invade the office of the *Advocate*, throw the type into "pi," break up the press and throw these, with some other *impedimenta* to what they considered true government, into the beautiful bay that faces the town. This act of lawlessness would at this day be visited with something more than a civil action. Mr. McKenzie did not, however, nor did the queen on his behalf appeal to the criminal courts for redress, but brought a civil action. J. B. Macaulay, afterwards Chief-Justice Macaulay, after making many attempts to get a settlement, offering money as compensation, was at last called upon to defend the rioters before Chief-Justice Campbell and a special jury, which resulted in a verdict against the defendants of \$2,500. This verdict did not, however, trouble the rioters much, for their sympathizers in the cause of responsible government raised the amount by subscription, and thus not only saved them from loss, but glorified them in the bargain.

Looking back to the time and the circumstances of this case, one can easily see that the soldier of the Highland regiment and chief-justice, and



who has come down to us described as a man of "great force of character, sterling integrity and personal worth," so conducted the minds of the jury that Mr. McKenzie obtained a measure of justice, though opposed by the might and power of officialism. Among the defendants, the rioters, were two sons of the inspector-general, a son of a judge, a son of a justice of the peace, and the confidential secretary of the lieutenant governor, Sir Peregrine Maitland, as well as others intimately connected with the reigning powers. The parties who committed these acts of violence quite over-shot the mark. Great indignation was excited in the minds of the people, sympathy was created for Mr. McKenzie, the people of the county of York took up his cause, and in the year 1828 returned him to parliament over his opponent, himself a Liberal, but who happened to be one of the counsel for the gentlemen of York in their trial of strength with the man who afterward became first mayor of Toronto, but better known as the leader of the rebellion of 1837. Mr. McKenzie was a remarkable man. Up to the rebellion his pen was his sword, the sharpness of which no doubt so incensed the young gentlemen of York that they took the law into their own hands. The rebellion and all that took place in connection with it is more for the general historian than for judicial history. I shall therefore leave it to the historians of the time to speak for that eventful period of our history.

When Judge Campbell in 1829, owing

to ill health, retired from the bench, he had the honor of knighthood conferred upon him, and thenceforward was Sir William Campbell. He was the first of our judges that was knighted, and the fact on that account deserves mention in this place. It cannot be said the title was undeserved, for what is more meritorious than that a soldier who had fought under Cornwallis should have abandoned the profession of arms for that of the law, and in time elevated to the chief-justiceship of a province, the early home and cradle of the United Empire loyalists?

Sir William Campbell's residence was on Duke street, Toronto, and is still standing. The chief-justice died in Toronto in 1834. Dr. Scadding, in his 'Toronto of Old,' in referring to this melancholy event, says: "The funeral of Sir William Campbell in 1834 was one of unusual impressiveness. The legislature was in session at the time and attended in a body, with the bar and the judges."

THE HONORABLE D'ARCY BOULTON,  
JUDGE OF KING'S BENCH,  
UPPER CANADA.

The Hon. D'Arcy Boulton was of a Lincolnshire family of long pedigree, the son of Henry Boulton, an English barrister. He was married on the eighteenth of December, 1782, at St. George's church, Bloomsbury, London, to a daughter of James Forster, sergeant at law. He came to America in 1797. We find him in 1803 settled in the township of Augusta, in the district of Johnstown, and moved

to York in 1807. The reason for Mr. Boulton's leaving Augusta for York in 1803 seems to have been that in that year, during the administration of Peter Hunter, esq., as lieutenant-governor, it was found that there was a scarcity of barristers in the province, and so the legislature thought fit to create certain gentlemen barristers by act of parliament. Mr. Boulton was one of those called to the degree of barrister on his English training alone. The act to which I have referred was passed in the third session of the third parliament of upper Canada, forty-third George III., Cap. III., and was entitled "An act to authorize the governor, or person administering the government of this province, to license practitioners in the law." The act recited:

Whereas, great inconvenience has arisen and is now experienced by his majesty's subjects in several parts of this province to practice the profession of the law, and unless the number can be speedily increased justice will in many cases be with great difficulty administered.

It then proceeded to enact that from and after the passing of the act it should and might be lawful for the governor to authorize by license under his hand and seal such and so many of his majesty's liege subjects, not exceeding six in the whole, as he from their probity, education and condition in life should deem fit and proper persons to practice the profession of the law in the province; that before applying for license to the governor, the judges of his majesty's court of king's bench should certify under the hand of the chief-justice that such court was satisfied of the ability and fitness of the

party so applying to be admitted to practice as a barrister or attorney of the province. On this certificate being obtained, the law society was to admit such person on subscribing the rules.

A good deal of pleasantry used to be indulged in by the wags of the day at the expense of these lawyers created by act of parliament, calling them the heaven-made lawyer. When we see, however, that men of ability and probity were to be selected from the body of the people and that his majesty's court of king's bench had to certify to their fitness, we may conclude that none but gentlemen of intelligence and learning were in this manner called to the bar; an improvement even upon the old English system of regulating the talent of the men by the number of dinners eaten in hall. Mr. Boulton was very well qualified to be called to the bar and had very rapid promotion. In 1805 he was appointed solicitor-general. In 1807 he had a commission of oyer and terminer and general jail delivery made to him. In 1810 Mr. Solicitor-General Boulton sailed for England, but when off Dungeness the vessel was sighted by a French privateer, the *Grande-Duc-de-Berg*, and chase given. Though the captain had arms on board he refused to fight, preferring a French prison to the dangers of an engagement. Mr. Boulton and, for that matter, too, the passengers did not agree with the captain—for fighting they were, and fighting they were determined to have. Mr. Boulton was possessed of true courage. The passengers, headed by the

Canadian solicitor-general, resisted the privateer, engaged with the enemy, but were, after a short contest, overpowered by a party of boarders, who obtained a footing upon the vessel. Mr. Boulton, wounded and a prisoner, was conveyed to Verdun, where he remained until the temporary peace of 1814, gave him his release. On Mr. Boulton's return to Upper Canada in this year, he was made attorney-general. I take pleasure in expressing my obligation to Colonel D'Arcy Boulton, of Coburg, a grandson of the judge, for information of family history of the judge, which it would have been difficult to obtain, but through a relative. Colonel D'Arcy Boulton himself is not without military experience, having for some years commanded a cavalry corps, called "the Prince of Wales Canadian dragoons," which he was principally instrumental in raising. His son, Major Boulton, in 1870, while doing his duty in the northwest, was made prisoner by Louis Riel in the first Riel rebellion, and confined in Fort Garry, sentenced to death by Riel, and only escaped death by the heart of Riel being softened by the appeals made in his behalf by friends of the major, and the respect which his bravery excited in the minds of his greatest enemies. The major has so well told his sufferings in his book, 'Reminiscences of the Northwest Rebellion,' that I need not repeat them here. Judge Boulton was elevated to the bench in 1818, and appointed judge of assize and *nisi prius*. He was in 1818 associated with Chief-Justice Campbell as one of the judges in

the trial of Paul Brown and F. F. Boucher for the murder of Robert Semple, Esq., in the Red river country on the eighteenth of June, 1816, and of Cooper and Hanneman for taking, on the third of April, 1815, with force and arms, eight pieces of cannon and one howitzer, the property of the Right Honorable Thomas, Earl of Seekirk, from his dwelling-house, and putting in bodily fear of their lives certain persons found therein. I have already referred to these trials shortly in the life of Chief-Justice Powell, and more fully in the life of Chief-Justice Campbell, making any further reference thereto unnecessary. The judgments of Mr. Justice Boulton are to be found in 'Taylor's Reports.' During his time the litigation of the day was principally confined to John Doe and Richard Roe, cases of arrest, bail and matters of practice. There were not many cases of much importance—at least not so considered at this time. The most important was the case arising out of the Red river riots, which he assisted in adjudicating. The judge used to drive on the circuit in his day under great difficulties, always carrying an axe and a rope for emergency, often having to cut through trees fallen across the road, and having to swim his horses across the Trent on going eastern circuit. Mr. Justice Boulton during his residence in York was ever on the *qui vive* for the material advancement of the place. Having land in the vicinity of the marsh at the east end of the town he, at great expense, cut an open channel through a portion of this marsh, on the eastern side of the Don

river, in front of this property. This channel has continued open ever since, and is known as "Boulton's ditch." Fishermen and skiffmen along the Don appreciate the ditch, however, as it forms a communication between the Don and Ashbridge's bay. The judge was a strong supporter of St. James' church, built in 1818, and contributed liberally to the funds raised for the erection of the church. Mr. Justice Boulton, as I learn from those who knew him and enjoyed the pleasure of his society, was a good specimen of the English gentleman of his day. Dr. Scadding, in his 'Toronto of Old,' writes of him: "Like many of his descendants, he was a lover of horses and a spirited rider; a man of wit, too, and humor, fond of listening to and narrating anecdotes of the *ben trovato* class." The judge was fond of entertaining the military and other prominent people of York, and was always a welcome guest at the garrison mess. He was not without experience of the military, not only of his own country, but of other countries. In the engagement with the French privateers, to which I have referred, he received a severe sabre cut on the arm, from which he suffered much. In 1829 the great surgeon, Sir Benjamin Brodie, performed an operation on this wound on the arm, which was thought necessary for the preservation of the patient's life, the wound being in dangerous proximity to the artery. It may have been that this French experience of his induced him on his release from imprisonment to give the name of Bonaparte to one of

his famous horses; he certainly had two carriage horses; one he named Bonaparte and the other Jefferson. These two horses of the judge acquired quite a notoriety in their day. The grange at the head of John street, now the residence of Professor Goldwin Smith, was formerly the property of Mr. Justice Boulton, and extended south as far as Lot, now Queen street. Bonaparte and Jefferson, not to be outdone in military prowess by their namesake, the general and the president were on a certain occasion attacked by a bear on these grounds coming out of the wood to the north. The bear was a very large one, and the horses were put on their mettle in self-defense. Bonaparte and Jefferson knew how to use their fore feet; made violent plunges therewith on the attacking enemy, and utterly routed Mr. Bruin, chased him down what is now called Bay street (but from this chase was originally called "Bear street") into the waters of the bay. Mr. Justice Boulton at first resided in a frame house, white painted, standing on the lot where Holland House, now the Reform Club, stands. Several children survived the judge. The Hon. Henry John Boulton, sometime chief-justice of Newfoundland and successively solicitor-general and attorney-general of Upper Canada, was one of his sons.

I am not able to fix the exact date of Judge Boulton's death. I have it from descendants, members of the family, that he died in York before the first cholera year of 1832—in 1830 or 1831. He was buried in St. James' churchyard and afterward removed to St. James' cemetery on the banks of the Don, his final resting place.

D. B. READ.



## THE FINANCIAL AND COMMERCIAL GROWTH OF MILWAUKEE.

## I.

THE early traders who located upon the Milwaukee river and taught the Indians of the west bank of Lake Michigan how to buy and sell according to the formula of the white man, have not left extended memorials of themselves, either written or legendary, but such as exist have been already recorded in these pages.\* The pioneer merchants who followed in the wake of the traders commenced with such limits of capital and patronage as are incidental to all lands newly opened on the edge of the wilderness. And while some fell by the way or sought newer fields, there were many who remained in their early location, and grew in wealth and power as the city sprung up about them; while a few are yet left to enjoy the fruits of that sowing performed so long ago. The business transacted in Milwaukee prior to 1830 was limited in quantity, and of a character fitted only to local needs. It was a period several years later when affairs had so expanded that the founders and chief owners of the city concluded that the time had arrived for the creation of a bank—and the history of their first attempt was hardly such as to justify the wisdom of that conclusion.

The generation that calmly proceeds

to its daily business in the security afforded by a stable and safe currency, can hardly understand and much less appreciate the dangers and annoyances that arose from the "wild-cat" money that was afloat all through the west a half century ago. "Much of trade was barter," as one has written of Milwaukee's early days, "and the limited amount of money in circulation consisted of small coin and a miscellaneous and ever-changing assortment of bills, bearing the device of banking institutions located at remote or unknown points in the vast wilds in the territory of Michigan, of which Wisconsin at that time constituted a small part. The bank of Green Bay was the only bank in the Wisconsin limits. It went out as soon as civilization dawned upon it, leaving only a mass of valueless securities, and an unlimited and unknown amount of worthless paper afloat. The paper money, such as it was, went current so long as Solomon Juneau or any other man of known integrity and standing would pronounce it good. Any bill was *good* that was not marked counterfeit, unless it was known that the bank had failed, which knowledge did not often reach Milwaukee from the remote points where these wild-cat banks were located, for many months after such ca-

\* Milwaukee, I, II and III, in February, March and April, 1887.

tastrophe had occurred. The losses were not generally so severe as annoying; since the amount of money held by any one individual seldom exceeded the amount of a single bill, and that generally of a small denomination of value."

When the people of Wisconsin, in 1836, found themselves raised to the power and dignity of a territory, they decided to be free of the banking domination of Michigan as they had escaped from her control in civil and judicial affairs. The territorial legislature had hardly convened before measures were on foot for the creation of several home banks, and out of the various propositions before that body, the incorporation of three banks was authorized at the first session—the Bank of Dubuque, Bank of Mineral Point, and Bank of Milwaukee.\* The capital of each

was two hundred thousand dollars; in shares of one hundred dollars each.

Of those banks, and of the means and men by which they were given permission and the power of law to be, the following has been said† by one well competent to speak upon any question touching our present theme:

The first bank in what is now called Wisconsin was chartered in 1835 by the legislature of the territory of Michigan. It was called the Bank of Wisconsin, and was located at Green Bay. When, in 1836, the first territorial legislature of Wisconsin met in the town of Belmont, in the present county of Lafayette, in the southwestern corner of the state, the Wisconsin of that time was very different from that of to-day. It then embraced all the territory between the Missouri river and Lake Michigan, north of the southern line of Iowa, being all of the present states of Wisconsin, Iowa and Minnesota, and one half the territory of Dakota. The population was then about twenty thousand, or one person to every thirteen square miles. . . . Those statesmen who met in Belmont, amid "the forests primeval," were men of large ideas, "stern men, with empires in their brains," and, of course, the third bill they passed was one organizing a bank—the Miners' Bank of Dubuque—and at the same session they also chartered the banks of Mineral Point and Milwaukee. Each of these banks had a capital of \$200,000, and was authorized to issue circulation to three times the amount of its capital, making a possible circulation of \$1,800,000, without counting the Bank of Wisconsin, at Green Bay. This was a very good beginning for a legislature representing 20,000 people, scattered over 266,000 square miles! The Miners' Bank of Dubuque, and

\* From 'Banking in Wisconsin,' by John P. McGregor, 'History of Dane County,' page 191: "Wisconsin was organized as a territory in 1836, and the same year several acts were passed by the territorial legislature incorporating banks of issue. Of these one at Green Bay and another at Mineral Point went into operation just in time to play their part in the great panic of 1837. The Bank at Green Bay soon failed and left its bills unredeemed. The bank at Mineral Point is said to have struggled a little longer, but both these concerns were short lived, and their issues were but a drop in the great flood of worthless wild-cat bank notes that spread over the whole western country, in that disastrous time. The suffering of the people of Wisconsin from this cause left a vivid impression on their minds, which manifested its results in the legislation of the territory and in the constitution of the state, adopted in 1848. So jealous were the legislatures of the territory of banks and all their works, that in every act of incorporation for any purpose, a clause was inserted to the effect that nothing in the act contained should be taken to authorize the corporation to assume or

exercise any banking power; and this proviso was even added to acts incorporating church societies. For some years there can hardly be said to have been any banking business done in the territory. Merchants and business men were left to their own devices to make their exchanges, and every man was his own banker."

† From an address on "Banking in Wisconsin," delivered by Mr. John Johnston of Milwaukee, at the convention of the American Bankers' association, at Saratoga, in August, 1880.

the Bank of Mineral Point issued circulation and did some business, but the Bank of Milwaukee was not so fortunate.

#### MILWAUKEE'S FIRST BANK.

The first great financial venture of Milwaukee has a place rather as a historical suggestion of what was hoped to be and what might have been, than as a factor of any potency in the city's development and growth. The charter under which it was created declared "that a bank shall be established in the town of Milwaukee, the capital stock whereof shall be two hundred thousand dollars, each share being one hundred dollars, and the books for receiving subscriptions for said stock shall, on the first Monday of June next, be opened at Milwaukee, under the superintendence of Rufus Parks, Horace Chase, James Sanderson, Giles S. Brisbin, Sylvester W. Dunbar, George Bowman, Jesse Rhodes, Cyrus Hawley and Solomon Juneau, who are hereby appointed commissioners to receive the subscriptions to the said capital stock, who shall be the first directors, and are authorized to elect their president from their own number, and to conduct every operation of the institution until the first election for directors and president shall take place." Many directions followed in the charter, for the opening and management of the bank; the number of directors to be seven; the charter to run twenty years; the name of the body corporate being "the president, directors and company of the Bank of Milwaukee."

The book in which the records of this not altogether fortunate institution

were kept during its brief career is still in existence, and tells the whole story with terseness and true banking brevity. "It is true," said Mr. Johnson, in reference to this bank, in the article above quoted, "it had an able board of directors. I have in my possession their minute book, and in 1836 and 1837 they met about as often and as regularly as do the directors of the Bank of England. Their discussions were as warm and lengthy, and, withal, they were not without some very conservative ideas on banking. I find a resolution passed that no paper should be discounted without two good names, approved by the board of directors, and that any person being an endorser on a note which had been protested, should not have any further accommodation until the protested note was paid. We feel that such resolutions meant business. Unfortunately, at the very next meeting, I find a resolution 'that all the notes discounted at this bank during the first week of January, 1838, payable at ninety days, be and are hereby extended for the term of one year.' It does not appear what notes these were, but I suspect they were notes of the directors themselves, in fact, the capital stock of the bank." The first record in the book is as follows:

At a meeting of the commissioners to receive subscriptions to the capital stock of the Bank of Milwaukee, held at the office of Rufus Parks on Monday the fifth day of June, 1837, pursuant to public notice, Solomon Juneau was called to the chair, and Giles S. Brisbin appointed secretary. On motion:

*Resolved*, That we now proceed to ballot for president. On counting the votes, S. W. Dunbar had four votes, Rufus Parks had three, Solomon Juneau and Cyrus Hawley one. On the second ballot S. W.

Dunbar had five votes, Rufus Parks three and Cyrus Hawley one. Whereas S. W. Dunbar was declared duly elected president. Cyrus Hawley then administered the oath of office to the president, and the president to the other directors. On motion:

*Resolved*, That the books of subscription be now opened. The president then named three of the directors to take charge of receiving subscriptions, commencing with himself, on each day of the week.

The next entry, under date of June 5, covers the first subscriptions of stock:\*

Name.	Residence.	No. of shares.	Amt. paid.
Walter Shattuck,	Milwaukee,	One,	\$10 00
Solomon Juneau,	"	"	10 00
Giles S. Brisbin,	"	"	10 00
Horace Chase,	"	"	10 00
James Sanderson,	"	"	10 00

Other Milwaukeeans came to the front and showed their faith in the enterprise, during several succeeding days, by the following added subscriptions:

Horace Chase,	Milwaukee,	Four,	\$40 00
S. W. Dunbar,	"	one,	10 00
George Bowman,	"	one,	10 00
Alanson Sweet,	"	one,	10 00
A. B. Morton,	"	one,	10 00
Charles H. Larkin,	"	one,	10 00

The directors again met on July 31, for the purpose of electing a successor to Jesse Rhodes, who had resigned because of removal from the territory. Alanson Sweet was proposed, and received four votes to three cast in blank. Thereupon the president declared there had been no election because no candidate had received a majority. Cyrus Hawley promptly offered a resolution

\* The charter provided that one-tenth the amount of each share must be paid the directors in specie at the time of subscribing, and the balance in such installments and at such times as they might require, sixty days notice of each requirement to be given through the public press.

declaring that Mr. Sweet had been elected a director. Objection was raised, and during a somewhat warm and earnest discussion, the president declared the meeting adjourned without day. An attempt was made at a meeting of September 4, to order a call of forty per cent. on the shares already subscribed, which was promptly voted down. Mr. Horace Chase tendered his resignation as director on the somewhat modest and novel grounds that he "did not consider himself qualified to fill the office," and Mr. Sweet was promptly elected to the vacancy. At a meeting in October E. K. Hubbard, of Chicago, was appointed fiscal agent of the bank, until a cashier should be secured. Bonds were required of him, but there is nothing in the record to show that he ever furnished them, or made any move toward acceptance of the position. "Up to December 12, 1837," is the statement of an authority, "the bank had had but indifferent success; only sixteen shares had been sold, and the cash receipts had been but \$160. On that day there was a tide in its affairs that for a brief time promised to the embryo bank a brilliant career of future profit to the stockholders—Francis K. O'Farrell—it appears as if heaven sent him to their relief. He, with the consent of the directors, took the remaining 1,984 shares, was appointed fiscal agent, was authorized to procure plates, books, paper, iron safe, etc., for the use of said bank, also to pay a bill of stationery already incurred by Rufus Parks. The records show that the said O'Farrell also paid forty



per cent. assessment on his entire subscription, and advanced forty per cent. on the sixteen shares not held by him. The payments were easily made, as O'Farrell, the capitalist, had only to pay it over to O'Farrell the fiscal agent, and only involved a record of the apochryphal transaction."

The O'Farrell episode was not altogether one of pleasure and profit; but afforded the record of some spicy movements on the part of those most concerned. At a special meeting held on February 19, 1838, a resolution was adopted ordering the fiscal agent to give bonds, and directing him to lay before the directors on the following morning, all books, papers, documents, notes, etc., in his possession, belonging to the bank. Another call of forty per cent. was also made. At the adjourned meeting on the day following, Mr. O'Farrell failed to appear, and a committee consisting of Alanson Sweet and Charles H. Larkins was appointed to seek him out, and demand the books and documents at his hands. His answer, as reported by these gentlemen, was a direct refusal to comply with the demand. On the twenty-second a resolution was adopted removing him from his position, and an advertisement ordered into the public press cautioning people to have no deal with him on account of the bank. This difficulty, and the hard times that came in the wake of the panic of 1837, prevented the bank from taking any further steps toward a realization of its purpose, and beyond an apparently aimless adjournment from time to time, no movement worthy of

record seems to have been made until December 20, 1838, when James Sanderson was elected president by a unanimous vote. On the same day the house of Owen Aldrich was designated as "the banking house of the Bank of Milwaukee, until otherwise ordered." One week later John S. Boyd was elected cashier. In 1839 the charter, which was to have run twenty years, was repealed by act of the legislature. On the twenty-ninth of October of that year a step toward a final disposal of the phantom concern was taken, when the directors united in a power of attorney, authorizing Charles H. Larkin to dispose of all their right in and title to the bank. The "property" lay idle in his hands until November 27, 1841, when for the consideration of one dollar, he transferred it to Alanson Sweet, who on August 2, 1842, for a like consideration, sold twelve hundred and fifty shares of the capital stock to James Ward and Lyndsey Ward. The final entry in the old book occurs on February 5, 1846, when Mr. Sweet sold to Alexander Mitchell, also for one dollar, the remaining seven hundred and forty-nine shares.

#### GENERAL BUSINESS FEATURES.

Before proceeding with any account of the more stable and fortunate banking institutions that realized eventually what this venture had only hoped, a glance should be given to some general business features of the day. The financial panic of 1837 did not fall upon the country without a cause, and the era of wild and almost lawless speculation that

ran all through the west during several years before the one of disaster, was felt in Milwaukee, where the constantly increasing streams of immigration gave promise of fulfillment to almost any wild dream of future prosperity that might be conceived. The year 1836 was one of such restless activity and venture, that a reaction must have been inevitable, had no reverse been threatened the country at large. A pen picture of the situation has been tersely drawn :

Immigration began early, became enormous, and lasted until late in the season. Saw-mills were running, a newspaper was founded, the court house was erected, streets were laid out and graded, a land office was opened, money was plenty, and everything went with such a boom as Milwaukee has never since seen. Everybody had a fortune in his pocket, in land, or in his mind. Buildings went up like magic. Many of them were good, but many not more substantial than magic. Stores with three sides enclosed and slab roofs, went up in a single day. Even ground room was valuable, enormous rents being paid for the privilege of opening and selling goods on vacant lots and corners. Stocks of goods were frequently retailed in a week, and some invoices were sold at fabulous profits, without even being opened. This did not last simply for a few days or weeks, but continued uninterruptedly from early summer into winter. About sixty buildings were erected, and people were half dazed by the rapid progress the place made toward a city. Speculators went to bed at night hugging themselves with delight over the prospect that the succeeding morning would double their wealth. Fortunes hung on every bush, were buried in every corner lot, and were lying scattered promiscuously over all the real estate in the vicinity.

The bubble burst even earlier than might have been expected. The winter of 1836-7 saw a sudden stagnation, while the spring witnessed crash after crash, that left the city in an almost hopeless slough of debt and despondency. Many instances might be culled

from the recollections of the older residents, of the reverses that followed in the wake of such high and extravagant hopes. "Business of all kinds continued good in Milwaukee," as set down by Mr. A. F. Pratt, "until navigation closed. Everybody had money enough, and some more. Many of the most careful business men in the east came here, so anxious to invest their money that they often bought thousands of dollars' worth of land unseen before sleeping, with a full assurance that it would double in value before morning. One man paid his all, fifteen thousand dollars, as a quarter payment down, and gave his note, secured by mortgage, for the balance, for a tract of land, and was compelled to borrow money with which to return home. The next spring, when his notes became due, he returned, expecting to sell a small portion of the land for enough to meet the mortgage, and retire on the balance. On arriving here he had the satisfaction of learning that his whole purchase, which was to have cost him sixty thousand dollars, would not command as many hundreds. The mortgage was afterwards foreclosed, and the land bid in by the mortgagee at five thousand dollars, and a judgment rendered against the mortgageor for the balance. This was but a fair sample of the business and the times. In 1837-8 lots that had been selling for thousands were sold for as many hundreds." Says another: "Milwaukee was left a prey to disappointment and poverty. Some, in despair, sold their property for a pittance. There were instances in which lots for which their owners paid, in

1836, five hundred to a thousand dollars, were exchanged for a barrel of flour, or pork, or a suit of clothes. Nearly all the tradesmen of the previous year disappeared in the collapse. It was a dark year, yet the more far-seeing and courageous of the property-holders of the place felt that, with the return of better times, their hopes would be realized, and wisely determined to hold on."

The amount of business done in Milwaukee during the period treated above, can be learned from the following table of imports and exports from 1835 to 1840:

	IMPORTS.	EXPORTS.
1835-36 .....	\$ 588,950.....	\$ 26,145
1837.....	641,235.....	47,745
1838 .....	783,458.....	47,690
1839 .....	866,740.....	43,568
1840.....	1,147,803.....	53,828

The natural advantages and the spirit of enterprise that existed together in the little settlement, were too strong for even these reverses to overcome, and a gradual advance was made out of the wreck, toward a more prosperous season. Some of the points of commercial interest belonging to that period have been described by one far more competent than most men to speak of Milwaukee's financial growth. "There are men in this hall," said Mr. John Johnston, on the opening of the new chamber of commerce building in 1880, "who remember when the cabin of Solomon Juneau was the only exchange room of which Milwaukee could boast, and its only trade was the bartering by that old pioneer of calico, wampum and similar commodities for the furs of the

red man. Then the only avenues of communication were Indian trails, of which four important ones centered here. Two started from the south side, one going to Chicago, and the other to Fox river; one from the west side to Green Bay, and one from the east side to Port Washington. After this, when the farmer took the place of the Indian, the street, the tavern and the store became the arenas for the exchange of the product of the soil for those needed to supply the farmer's wants. Wisconsin, little over thirty years ago, raised hardly enough of wheat for its own food and seed, and the means of conveying any local surplus to market were very deficient. There were as yet neither plank roads nor railroads. The price of grain scarcely justified the hauling of it by wagons over ungraded roads, unbridged streams and undrained sloughs for distances varying from twenty to seventy miles, and many a pioneer farmer can tell how on his return home from a journey to Milwaukee with a load of wheat, he found that the expenses of the journey had exhausted the money he received for the grain. . . . The first load of wheat which ever entered Milwaukee was received in 1839 and brought fifty cents per bushel.\* The first wheat sent from

\* From the Milwaukee *Sentinel* of November, 1880: "Ex-Governor Ludington bought the first load of wheat offered here in 1839 at fifty cents a bushel, and resolved himself into an elevator by shouldering each bag the Caldwell prairie farmer had filled, and carrying it to the upper floor of the old Ludington store and warehouse, then situated at the northwest corner of East Water and Wisconsin streets, a building yet in existence and serving as a flourishing mill in its new location on River street."

Milwaukee was shipped on July 8, 1841, on the schooner *Illinois*, Jonas Pickering captain, and consisted of a cargo of four thousand bushels. It took three days to load it. With our present facilities for handling grain, four thousand bushels can be shipped in about fifteen minutes. The construction of the red warehouse, in which a single horse did the elevating, was considered a great advance in the manner of handling grain, and still more of an advance was the blue warehouse, for in it two horses were used. Even as late as 1853, when the population of Milwaukee was over 25,000, the shipments of wheat had not reached a million of bushels per annum. The receipts of wheat and flour continued to increase till they attained their highest point on the crop of 1873, being then forty millions of bushels."

#### A SUCCESSFUL VENTURE.

It was amid the reviving hopes that the little town had commenced to build after its season of ill fortune, that there appeared in her midst two young men whose presence was soon felt, and one of whom was for many years one of the great avenues by which came her prosperity and growth. Among those who were attracted to the west in 1839 were George Smith and Alexander Mitchell, who came from Aberdeen, across the sea, as the agents of the Scottish Illinois Land Investment company. Mr. Mitchell had spent a short season in a bank before coming across the water, and had thus gained an experience that fitted him for the opening that offered itself before him. After a careful sur-

vey of the situation, the young men came to the conclusion that there was room for the use of enterprise and money beyond the mere investment in land. By their efforts a charter was received from the state legislature, authorizing the creation of the Wisconsin Marine and Fire Insurance company. It was permitted not only to do an insurance business, but also to receive deposits, issue certificates and lend money, while at the same time the charter contained the usual prohibitions of the exercise of banking power: "Meaning, perhaps, if it meant anything, that they should not do such a business as other western banks had done, which had consisted in issuing an unlimited amount of currency, and failing whenever it was presented in any large amount for redemption. As the legislators of the territory knew of no other kind of banking that was undoubtedly the meaning and intent of the forbidding clause."

Mr. Smith was chosen president and Mr. Mitchell secretary of the company, and what has since become one of the grand financial landmarks of the west, entered upon its career of honorable prosperity. The paper rags that had passed current under the name of money, had been long since blown into limbo by the hurricane of '37, and the business of the state was suffering for the need of a currency other than the specie that could not always be had at command. Whether such was the purpose or not of the shrewd young Scotchmen in the beginning, the fact soon became apparent that the insurance business



was of secondary importance, the receiving of deposits and the issuing of bills—with other things of like bank character which the prohibition does not seem to have prohibited—becoming ere long the main business of the concern. To such as came their way to deal, they issued certificates of deposits, in all respects resembling bank bills, in denomination as low as one dollar, and payable in coin upon demand. The form of that bill was like this :

WISCONSIN MARINE & FIRE INSURANCE  
COMPANY.

No. —

This is to certify that ..... has deposited  
with this institution one dollar, which will be paid  
on demand to bearer.

MILWAUKEE, — — —

GEORGE SMITH, President.

ALEXANDER MITCHELL, Secretary.

The natural doubt of all paper money that those fresh from recent bitter experiences could not be blamed for harboring, soon gave way to confidence as the character of the men whose names appeared upon the bills became known, and as business men discovered that all their demands for specie were promptly honored. Their bills soon went in the west, wherever the gold would go, and here in Wisconsin became generally acknowledged as good as the coin itself. From Detroit to St. Louis, and even as far east as Cleveland and Cincinnati, they went without question. The policy of not flooding the country with such a mass of bills as to invite danger and destroy confidence, was so well followed that by 1843 the circulation had reached but one hundred thousand dollars. Such became

the demands of business and the growth of the bank, that by November, 1845, it was \$250,00; in July, 1847, \$300,000, and in November of the same year over \$400,000. On November 1, 1848, it reached \$600,000, and on October 1, 1849, it ran to a point over one million dollars, although in some three months it fell to \$370,000. In December, 1851, the year before the passage of the state bank law, its aggregate circulation was \$1,470,235. Every dollar of this was redeemed in coin, except some thirty-two thousand that were never presented.

The doors of the bank were first opened in May of the charter year, in a small frame building located upon Broadway between Wisconsin and Mason streets, near the centre of the block. Mr. Mitchell gave his personal attention to the bank, acting not only as secretary but as teller and cashier as well. In the spring of 1840 he was relieved of a portion of these duties by the arrival of Mr. David Ferguson, who has ever since occupied a position of responsibility and trust in the institution. The office was then removed to the north side of Wisconsin street, near the alley, in a small one-story frame structure, erected by Solomon Juneau. In the spring of 1842 the increasing demands of business made a second removal necessary, the location chosen being the old Lowry mansion, on the north-west corner of Broadway and Wisconsin streets. In a new and commodious office that was there fitted up, the bank remained until 1846, when the still increasing business necessitated a third removal. The lot upon the southeast

corner of East Water and Michigan streets, the old Juneau homestead, was now purchased, upon which a suitable building was erected into which the office was removed. Soon after this Mr. Smith withdrew his interest, and Mr. Mitchell became president and sole proprietor. The business remained on this stand until August, 1853, when the whole square was burned—the flames making such rapid headway that the clerks hardly escaped. The fire was scarcely extinguished before the ground was fairly alive with men clearing away the *debris*, such was the energy of Mr. Mitchell, and a new structure quickly took the place of the burned one, of vastly increased dimensions, in which the business was conducted until 1876, when it was pulled down to make way for one of the most magnificent buildings of the kind in the northwest, if not in the country.

The success which had waited upon the intelligent and energetic efforts of Mr. Mitchell and those associated with him was not won without opposition and enmity upon the part of others. There was naturally a feeling of fear on the part of some that some day a refusal to redeem would be heard, and the whole concern go up as had its predecessors in the paper money way; but the greater part of the opposition came from those who could not calmly see the power and prosperity of a concern in which they had no part. In 1844 influences were set at work in the legislature that resulted in the repeal of the company's charter. This action made no perceptible difference in their busi-

ness, unless it was to increase it; as the reputation of the men who had it in charge was certainly made secure by the course they pursued. They declared that the charter could not be repealed, taking this ground under the decisions of the supreme court of the United States, as they then stood, which held that the charter of a corporation was a contract between the government and the corporation, which was irrevocable, except by the consent of both parties. It was further claimed by the officers that in case they were not acting under due provisions of law they could be reached by legal means—an experiment which nobody made. A manifesto was also promptly issued, in which it was declared that: "The recent action of the legislature will not affect our rights, or interrupt our business; our notes will continue to be redeemed as heretofore, in Milwaukee, Chicago, Galena, St. Louis, Detroit and Cincinnati." By this announcement and its complete verification by the practical results that followed, the people of Wisconsin learned that Messrs. Smith and Mitchell had come to stay, and that whatever they might promise could be relied upon as the actual truth. "It was reasoned," one has said, "that if these young men were ever to leave they would have done so when the legislature repealed their charter, but inasmuch as they held their heads up fearlessly, and acted squarely, they were good men to tie to."

The dangers and annoyances that presented themselves from Madison were not the only ones the bank was

compelled to meet. Several severe runs were inaugurated at times by those who had purposes of their own to serve; but on no occasion was the company caught napping. The greatest attempt of this kind that occurred in November, 1849, has been thus tersely described: "The last Thursday of that month being Thanksgiving day, George Smith, like a good Christian and patriot, closed his bank. Word was at once sent to Milwaukee and over the west, that George Smith's bank, in Chicago, had closed its doors, and at the same time the brokers sent on their accumulation of notes to Milwaukee for redemption. Mr. Mitchell had had no warning of the approaching run, but as soon as he knew what was going on, he sent for coin, both by lake and land, to meet it. It has been said by 'lake and land,' and this double line of supply was intentional and not accidental. The steamboat might meet with an accident, or the vehicle on land be waylaid, and all risks were to be avoided; as a matter of fact, the wagon did break down, and came in on three wheels. The run had been met, and met successfully, before the coin sent for, arrived. The depositors never ran the company, but, on the contrary, they turned out *en masse* to assist it; and farmers, twenty miles away, on hearing that Mr. Mitchell was being run, have been known to stop their work and hurry to the rescue, with what little coin they could command."

As the financial growth of the city is to be carried only to 1850 in this number, this first actual bank of Milwaukee

will be left for the present with the following quotation from the able paper of Mr. John P. McGregor, to which reference has been already made:

As the general government required specie to be paid for all lands bought of it, the Wisconsin Marine and Fire Insurance company, by redemption of its certificates of deposit, furnished a large part of the coin needed for use, at the Milwaukee land office, and more or less for purchases at land offices in other parts of the state, and its issues were of course much in request for this purpose. For many years this institution furnished the main banking facilities for the business men of the territory and young state, in the way of discounts and exchanges.

Another institution which has long exerted a wide influence and held a high and honorable position in the banking world of the west, of which it is yet a part, was also originated before the passage of the state banking law. In 1847 Mr. Samuel Marshall founded the private banking house of S. Marshall & Co., and two years later Mr. Charles F. Ilsley became a member of the firm, the name of which was changed to that yet borne—Marshall & Ilsley. The bank has ever been regarded as one of the soundest and safest institutions of the city, which reputation is due to its honorable methods of business, as well as the high personal standing of the men who have so long had it in control.\*

#### SMALL SUGGESTIVE FEATURES.

The history of any city is made up to a great extent of the personal experiences of its people and the varying fortunes of its institutions; growth com-

\* The steps leading to the state bank law, with some record of the Milwaukee banks established thereunder, will be given in a later number.

ing rather in detail than by the movement of a great mass. The record of Milwaukee lies along these lines, and although more is left unsaid than can be said, a few detailed incidents gleaned here and there will be of interest. The year 1838 saw the erection of "Dousman's warehouse," which had the honor to receive and send forth the first cargo of wheat that ever left the city—a pioneer movement in a line of trade that eventually became a great portion of commercial Milwaukee. Of the situation of the city in a business way about this time, we have had a brief statement from a pioneer merchant who cast his lot in with the little town in 1840—Mr. E. D. Holton, who made the following statement, at the opening of the chamber of commerce, on November 22, 1858: \*

On the twelfth day of November, 1840, I took up my abode in Milwaukee, with the profession of a merchant. I first opened my goods in one corner of a warehouse, known as the Hollister warehouse, and located somewhere near if not upon the exact site where now stands the Checkered warehouse, just

\* For the address in full, see 'Commercial History of Milwaukee,' in collections of the Wisconsin State Historical society, vol. 4, page 253.

below Walker's Point bridge. I remained here, however, but a few days, not being satisfied with the location. I rented from D. A. J. Upham, Esq., the building now occupied by our fellow-citizen, Mr. Caleb Wall, on the corner of Wisconsin and East Water streets, at the moderate rate of seventy-five dollars per annum for rent, with the privilege of deducting from the rent for cleaning and repairing. . . Think of it—but eleven stores, all told, in the town, any one of which would be very diminutive in the comparison by the side of our mercantile houses of today—and that but eighteen years ago. And now I am amazed almost when I visit either the northern or southern ends of our city, and witness the extent of business done. Then no man came to town to market a load of produce, or to buy but a few dollars' worth of goods, who did not visit every store in town. But now hundreds of people come to the city daily to do business, and in coming from the north, market their productions and make their purchases, and do not get east of the river, or south of Tamarack street, in the second ward—so numerous and extensive are the mercantile and manufacturing establishments—now to be counted by hundreds—in those quarters of the town, where, at the time to which our observation goes back, not one of them existed.

These words were uttered near thirty years ago. What could not Mr. Holton, who is still among the people he has known so long, say now of the greatness, extent and wealth that have been added to Milwaukee since that dedicatory gathering of 1858!

J. H. KENNEDY.



## EDITORIAL NOTES.

## THE AMERICAN HISTORICAL ASSOCIATION.

THE fourth annual meeting of this association was held, in connection with the annual meeting of the Economic association, in Boston, May 21-25, and was unusually successful. We abridge a very interesting account of the meeting by Professor H. B. Adams, Ph. D., the secretary of the association, that we find in *The Independent*:

The Boston meeting of the American Historical association was held by agreement at the same time as the meeting of the American Economic association, many of whose members belong also to the historical society. By this arrangement general convenience and individual economy were both subserved. It is, moreover, a striking fact that, in this country as well as in Europe, history and economics are growing closer together. The tendency of history is economic and the tendency of economics is plainly historical. Each science gains by applying the method and results of the other.

The two conventions began with a joint session Saturday evening, May 21, in Huntington hall, at the Massachusetts Institute of Technology. Mr. Justin Winsor, president of the Historical association, gave an address upon the subject of American historical manuscripts. He described the character, value, and methods of editing and preserving such papers in various states. He noted the neglect and losses which many famous collections had experienced, and called attention to the present scattered condition of letters and manuscripts, which, although in private hands, are of great importance to the Nation's history. Mr. Winsor's address led to a resolution by the association that a committee of seven, consisting of Justin Winsor, George F. Hoar, John Jay,

Andrew D. White, Rutherford B. Hayes, A. R. Spofford, and Theodore F. Dwight, take measures looking toward the establishment of an unpaid National commission for the preservation, collection and utilization of historical manuscripts.

Diplomatic history was a new and pleasing feature in the exercises of the association. There were three contributions of this nature: (1) "The Diplomatic Prelude to the Seven Years' War," by Herbert Elmer Mills, fellow in history, Cornell university—a paper based upon new materials, and showing that some of the positions of Ranke and Carlyle are untenable; (2) "Silas Deane," by Charles Isham, of the New York Historical society—a paper vindicating this much-abused American diplomatist of the Revolutionary period; (3) "The peace negotiations of 1783," by the Hon. John Jay, president of the Huguenot Society of New York, and formerly minister to Vienna, who showed the triumphs of American diplomacy in securing important concessions from England in spite of the opposition of our French and Spanish allies.

Among the papers upon European topics were the following: (1) "A Study in Swiss History," by John Martin Vincent of the Johns Hopkins university, who compared the history of local institutions, states' rights, and sectional controversy in Switzerland with corresponding phenomena in the local and Federal history of the United States; (2) "The Parliamentary Experiment in Germany," by Dr. Kuno Francke of Harvard university, who, in a lucid and persuasive manner sketched the legislative history of the new German empire with reference to military, ecclesiastical, social and financial questions; (3) "Leopold von Ranke," a biographical sketch of the only honorary

member of the association, by its secretary; (4) "The Government of London," by Professor Arthur M. Wheeler of Yale university, who tersely characterized the municipal institutions, the economic waste, and the proposed reforms of London-town.

Among the papers relating to American history were: (1) "The Spaniards in New Mexico," by Gen. W. W. H. Davis of Doylestown, Pennsylvania, who upon the basis of original investigations, gave an instructive account of early Spanish explorations in the southwest, and suggested the identity of the Pueblo Indians with the peoples that the Spaniards first saw and described in the region of New Mexico; (2) "The Historic Name of Our Country" was the subject of an interesting paper by Professor Moses Coit Tyler of Cornell university, who discussed the different names which at various times have been proposed for this country, such as Columbia, Alleghania, Apalachia, Washington, Vesperia, Freeland, Fredonia, Cabotia, and Vinland; (3) "The Constitutional Relations of the American Colonies to the English Government at the Beginning of the American Revolution," was suggestively treated by Judge Mellen Chamberlain of the Boston Public library, whose thesis was that the questions at issue from 1763 to 1776 were not new but were co-eval with the first political organization of the British American colonies, and have survived, in some instances, down to the present day in our own constitutional struggles; (4) Mr. James Schouler of Boston, author of the 'History of the United States,' which is much admired by many readers, presented a brief and valuable paper upon the subject of "Historical Grouping," in which he urged the importance of showing the relation of subordinate as well as of leading personages to the shaping of historical events. Fame always takes care of her chief heroes, but their associates are often forgotten. Mr. Schouler emphasized the great truth to which the greatest of modern historians early came: "Every epoch is best read and explained by its own contemporaneous record."

Two papers of special interest to students of ecclesiastical history and of the relations of church and state in this country were: (1) "Religious Liberty in Virginia and Patrick Henry," by Charles J. Stillé, LL. D., for many years provost of the University of Pennsylvania. Dr. Stillé opposed the thesis presented by the Hon. William Wirt Henry of Richmond, at the Washington meeting of the association last year. Dr. Stillé maintained that Thomas Jefferson and not Patrick Henry was the real founder of religious liberty in Virginia. The earlier toleration established in the Quaker colony of William Penn, was also considered. This paper led to a lively discussion of the subject of Roger Williams and toleration in Rhode Island, by Charles Deane, LL. D., vice-president of the Massachusetts Historical society. (2) A second paper in the religious field was that by Dr. Philip Schaff of Union Theological seminary, New York, and a former pupil of Leopold von Ranke. Dr. Schaff spoke of the "American Church in History." He showed that a free church in a free state is the distinctive characteristic of American Christianity. The position differs from: (1) the hostile relation of the first three centuries; (2) the hierarchical ascendancy of the church in the middle ages; (3) state-rule over the church; (4) toleration, which may be withdrawn; (5) red-Republican infidelity. "The progress of history," said Dr. Schaff, "is the progress of liberty, and self-government in church and state."

Decidedly the most important and most successful meeting of the week was the joint session of the Historical and Economic associations in Sanders' theater, at Harvard university. Nothing could better illustrate the economic tendencies of history, or the historical drift of economics than the programme of that joint session. Professor E. J. James of the University of Pennsylvania, read a vigorous historical defense of "Our Legal Tender Decisions."

The second paper read at Cambridge was no less characteristic of the economic and biological methods which are influencing some of our

younger historians. Dr. Albert Bushnell Hart, one of the two representatives of American History at Harvard university, presented to the combined associations, the "Biography of the River and Harbor Bill."

Perhaps the strongest current of popular and contemporary interest was that introduced from the Nation's capital by Colonel Carroll D. Wright, United States commissioner of the bureau of labor statistics, in his vigorous plea for "The Study of Statistics in American Colleges." He said: "I would urge upon the government of the United States and upon the governments of the states the necessity of providing by law for the admission of students that have taken scientific courses in statistics as honorary attachés of, or clerks to be employed in the practical work of statistical offices." He also urged the government-training of educated young men for the consular and diplomatic service, and for other branches of practical ad-

ministration. This thought, which is now historical, will bear political fruit.

There is good reason to think that the two associations will meet next year at Columbus, and at the same time. If so, Ohio and the west should welcome their coming.

The officers of the Historical association already chosen for that meeting are William F. Poole, LL. D., of Chicago, president; Charles Kendall Adams of Cornell university and Hon. John Jay of New York, vice-presidents; H. B. Adams of Baltimore, secretary; C. W. Bowen of New York, treasurer; and, in addition to the officers above named, Hon. Andrew D. White of Ithaca, New York; George Bancroft of Washington, District Columbia; Justin Winsor of Cambridge, Mass; Rutherford B. Hayes of Fremont, Ohio; Professor John W. Burgess of Columbia college; Professor Arthur M. Wheeler of Yale university, and Hon. William Wirt Henry of Richmond, executive council.

## CORRESPONDENCE.

*To the Editor of the MAGAZINE OF WESTERN HISTORY :*

**THE CENTENNIAL CELEBRATION AT MARIETTA, OHIO, APRIL 7, 1888, OF THE SETTLEMENT OF THE NORTHWEST TERRITORY.**

On the seventh of April, 1788, General Rufus Putnam with about fifty men landed at the mouth of the Muskingum river to found a colony. A million and a half of acres had been purchased of the government, and these men and their associates, most of them officers of the Revolution, had determined to begin a settlement which they expected to be the germ of new states. The plan had been formed five years before while the army was still in camp at Newburgh, and had received the hearty approbation of the commander-in-chief. Suspended for a while, the project was renewed a few years later, and in 1787 application was made to congress to purchase land.

This proposal of the Ohio Company to purchase land and establish a colony produced a marked impression on congress. It interested, indeed, the whole country. It was the immediate occasion of the passage of the celebrated ordinance of 1787. The proposed settlers wanted a good government under which to live, as well as lands on which to make new homes. Congress knew that no better men could be found to whom to entrust the responsible work of building up new institutions in a new region; and without hesitation, and with a unanimity almost unexampled, enacted such an ordinance of government as they desired.

In the following winter the pioneers, leaving their families at home, made the tedious journey across the mountains, built boats in which to descend the Ohio, and landed at the destined place Monday, April 7, 1788. In a short time came, with others,

the judges—General Samuel H. Parsons, of Connecticut, and General James M. Varnum, of Rhode Island,—as also the secretary of the territory, Major Winthrop Sargent, of Massachusetts; and early in July the governor, General Arthur St. Clair, of Pennsylvania. Before the close of that month the machinery of government was in operation, and the county of Washington, then embracing about half the present state of Ohio, was established by the proclamation of the governor.

The centennial of the founding of this colony—in its circumstances and results one of the most remarkable the world has ever seen—which was the beginning not only of Ohio but the Northwest territory, will be celebrated in an appropriate manner at Marietta on the seventh of April, 1888.

The governors and other officers of the states formed from this territory will co-operate in the celebration; and the governors and others from the old thirteen states will, it is expected, honor the celebration with their presence. For it was by the wisdom of the continental congress, composed of the delegates of those states, and by the valor of the army that the war for independence was successfully waged, and this great northwestern region wrested from Great Britain and made an integral part of the United States.

Expositions are in contemplation to be held at Columbus and Cincinnati in the autumn of 1888, to show the growth, industrially and otherwise, of the state of Ohio, during the century. These will attract multitudes of visitors, especially from our own state, but they should not be confounded with the centennial proper—the celebration at the point of settlement and on the day when the northwest territory had its beginning.

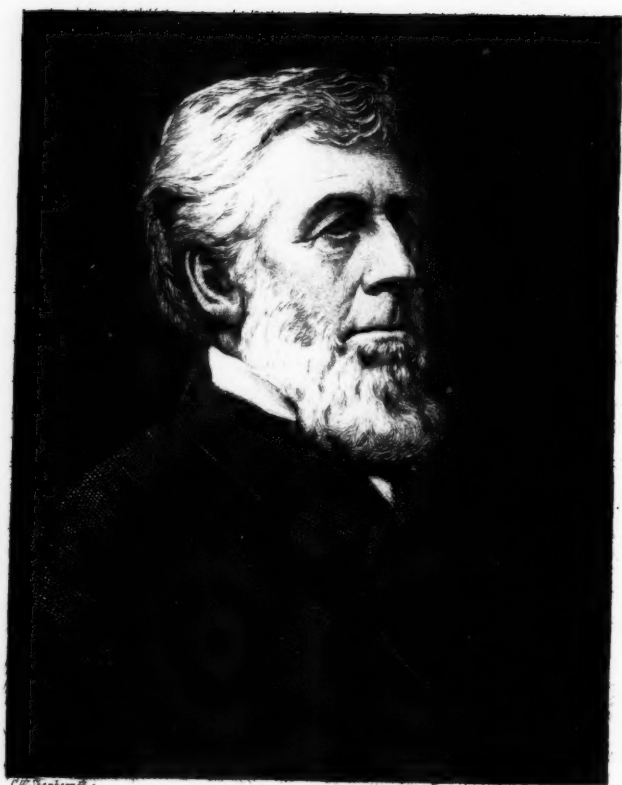
I. W. ANDREWS,

For the committee.

MARIETTA, O., June, 1887.



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J. S. Mill.